Columbia Institute for Water Policy

November 20, 2006

Washington Department of Ecology
15 West Yakima, Suite 200
Yakima, WA 98902

Re: Columbia River Water Management Program
Programmatic Environmental Impact Statement

Dear Department of Ecology Staff,

These comments are submitted on behalf of the Columbia Institute for Water Policy, an organization that promotes sustainable, equitable and ethical use of the water resources of the Columbia watershed.

The Columbia River Water Management Program PEIS is a problematic document. While chock full of detail (some accurate, some not), the more serious problems of the PEIS result from its overall approach. *The PEIS ignores or avoids a host of opportunities to develop a progressive, sustainable, economically well-grounded water management program that would promote the public interest*, rather than maintain a status quo that imposes harsh, difficult-to-mitigate costs on people and the environment.

The PEIS fails to consider comprehensive impacts of dams & industrial agriculture. The Columbia watershed is one of the most heavily dammed river basins in the world. Unremitting development of dams, reservoirs and irrigation projects have destroyed untold riverine, terrestrial, wildlife and cultural resources.[1] As the analytical foundation for a new dam & reservoir construction program, one would expect the PEIS to include a thorough analysis of the cumulative effects of past water development activities that have so thoroughly altered and damaged the basin. Such an analysis is not present. Its absence suggests a bias toward water storage projects and away from preservation and restoration of ecosystems.

The PEIS fails to assess sustainable agriculture options. Any new publicly-funded program intended to assist the agricultural economy should focus on sustainable agriculture: policies to promote small-scale, local farming that minimizes use of chemicals, maximizes soil building, and enhances the natural resource base.[2] The PEIS could analyze the opportunities to use this new public program to promote sustainable farming. Instead, the concept of promoting sustainable agriculture is discarded.

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The PEIS fails to analyze social justice impacts. Water development projects tend to discriminate against people of color and low income communities.[3] Eastern Washington irrigated agriculture operates on the backs of immigrant labor and tribal communities. New Columbia water projects that are designed to promote industrial agriculture will exacerbate these problems. The PEIS ignores real-world social, economic, and health problems associated with new water projects, and fails to assess policies that could alleviate existing and future environmental injustice.

The PEIS fails to analyze how proposed water management will impact endangered salmon and lead to endangered species litigation. The legislative determination that the impacts of new water rights need only be mitigated in July and August contradicts both mainstream scientific thought and Columbia River hydro/irrigation project operational rules. If the Department of Ecology issues water rights in conflict with federal requirements it will (1) violate the Endangered Species Act and (2) hasten the extinction of wild salmon in the Columbia River basin. The PEIS should, but does not, analyze the full range of consequences that will flow from the legislative choice to ignore endangered species requirements.

The PEIS fails to consider instream flow options. The Columbia water bill, HB 2860, promises repeatedly that the program is to be designed with twin goals, one of which is to improve instream flows in the Columbia River. But the PEIS does not identify or discuss necessary improvements in flow, nor does it discuss options for how to achieve those improvements. The PEIS ignores modern concepts of instream flow analysis, e.g., the "natural flow regime," which the Washington Department of Fish & Wildlife is incorporating into its instream flow analysis.[4] The PEIS also fails to analyze water quality problems caused by dams and the questionable approach of using dam & reservoir projects to improve fisheries habitat. Again, the bias is toward building dams, not improving the Columbia River ecosystem.

The PEIS fails to consider market solutions. Economic choices have environmental consequences. Existing demand for water in the Columbia watershed is not simply for water, but for "free" water – i.e., water that is subsidized by the public and provided to water users at less than the true cost to develop it. Virtually all demand can be controlled and met through economic policies and methods, including appropriate pricing, water banks, acquisitions and transfers, and other mechanisms.[5] The PEIS asserts that such analysis is outside its scope, but in fact, the state is making an economic choice to not study water markets as a mechanism to address water supply needs.

The PEIS is disconnected to the Water Supply Inventory. Although the documents were issued almost simultaneously by the same program within the Department of Ecology, the PEIS fails to consider and incorporate the findings of the new Water Supply Inventory (WSI). Important WSI findings include that (1) future demand for irrigated agricultural lands is projected to be flat, and (2) aggressive water conservation projects could effectively meet future water supply needs. Because of these findings, the PEIS should, but does not, examine a "water conservation only" alternative. Why is the state spending $200 million-plus on a dam building program if its own analysis shows that water conservation can fix the problem?

The PEIS scope is arbitrary. The PEIS excludes some water development projects in the Columbia basin, while others are pronounced to be within the scope of the program. No criteria are set forth, other than language of the statute, to determine what is in and what is out. However, because SEPA requires consideration of cumulative impacts, the PEIS should consider the interrelated effects of all ongoing water development programs, regardless of which agency in charge.

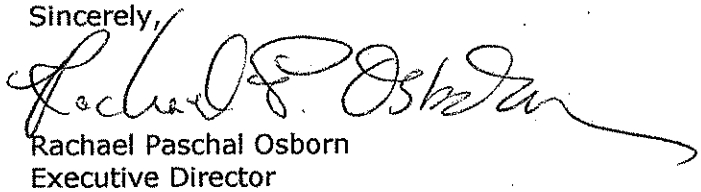
After a hundred years of water management policies that have over-appropriated most of Washington's rivers and destroyed many of their values, including fish and wildlife habitat, recreation and aesthetic beauty, one would hope that Washington state had learned that more dams, more reservoirs, and more destruction of habitat, is not the answer. One would hope the state would

- Promote ecologically sustainable water programs
- Adopt a precautionary approach to water management
- Consider the social justice impacts of its actions before moving forward.

The Columbia Water Management Programmatic EIS indicates that is not to be the case.

Thank you for the opportunity to provide comments.

Sincerely,



Rachael Paschal Osborn
Executive Director

cc: Governor Christine Gregoire
Senator Eric Poulsen
Senator Lisa Brown
Senator Karen Fraser
Representative Kelli Linville
Representative Timm Ormsby
Representative Alex Wood

Please contact the Columbia Institute if you would like to receive copies of any of the following articles.

[1] *See* World Commission on Dams, Ortolano, L., et al., Grand Coulee Dam and the Columbia Basin Project, USA (2000), www.dams.org.

[2] The U.S. Agricultural Research, Extension & Teaching Act, 7 U.S.C. §3103(18), defines sustainable agriculture as:

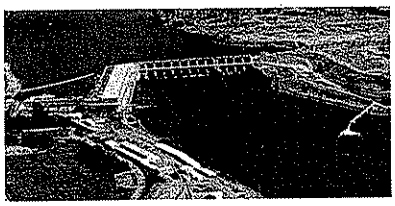
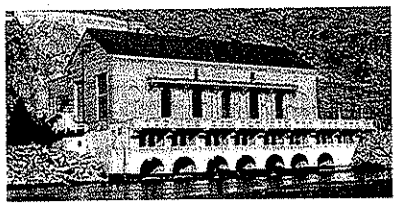
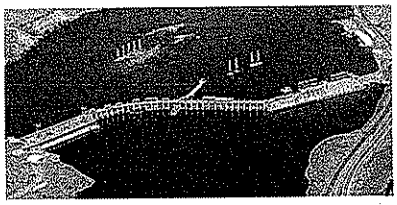
> an integrated system of plant and animal production practices having a site-specific application that will, over the long-term—
> **(A)** satisfy human food and fiber needs;

(B) enhance environmental quality and the natural resource base upon which the agriculture economy depends;
(C) make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls;
(D) sustain the economic viability of farm operations; and
(E) enhance the quality of life for farmers and society as a whole.

[3] Environmental Justice Coalition for Water, Thirsty for Justice: A People's Blueprint for California Water (2005), http://www.ejcw.org/.

[4] See Poff, N.L., et al, "The Natural Flow Regime," BioScience (Dec. 1997). This seminal paper sets forth how the dynamic nature of river flows serves to protect and restore ecological integrity. Maintaining variability in instream flows promotes essential river functions, such as channel maintenance, biological productivity, riparian vegetation recruitment and diversity, and fish & wildlife life cycles. The point is that river ecology requires focus on more than just minimum flows, but high flows, and the duration, timing and variability and of flows. On the web at http://www-personal.umich.edu/~dallan/pdfs/Poff_1997.pdf.

[5] Glennon, Robert, "The Quest for More Water – Why Markets Are Inevitable," at the PERC (Property & Environment Research Center, Bozeman, MT) website: http://www.perc.org/perc.php?id=823.

PUBLIC UTILITY DISTRICT NO. 1 *of* CHELAN COUNTY
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November 20, 2006

Derek Sandison
Department of Ecology CRO
15 W. Yakima Ave., Suite 200
Yakima, WA 98902-3452

Re: Columbia River Draft EIS Comments

Dear Mr. Sandison

Public Utility District No.1 of Chelan County (Chelan) would like to thank you for the opportunity to provide comments on the Columbia River Draft EIS. Chelan would also like to recognize the work Ecology has put into this very complex subject of balancing multiple needs with a finite source. Chelan has two brief but interrelated comments regarding the proposed drawdown of Lake Roosevelt and one comment regarding municipal water supply.

The first comment relates to the timing of refill for the additional Lake Roosevelt water withdrawals. If additional water is to be withdrawn, this water will have to be replaced at some point prior to the next season. Due to the low flows and high loads during the winter months of December-February, Chelan would like to impress on Ecology the importance of not using this time period to replace the water withdrawn when implementing this option.

The second comment relates to compensation impacts relating to the additional drawdown of Lake Roosevelt. Chelan recognizes the additional drawdown would be within the normal operation range of Lake Roosevelt. However, the additional drawdown would be water released above and beyond the amount normally released in a given water year, creating a potential impact. It has been difficult for Chelan to analyze the impacts of this operation on its ability to produce power. This is due to the fact that the timing of the withdrawal and the subsequent refill has a large effect on the magnitude of impact and the timing of the refill component has not been identified. With this being said, Chelan would like Ecology to consider compensation for impacts related to lost power opportunities or costs incurred to purchase power if impacts are identified when more detailed information is available. The compensation would be for the additional costs or loss power opportunities caused by the change in flows when compared to the normal operations of a given water year.

The final comment is made as a point of clarification regarding Section 3.13.1. This section identifies the East Wenatchee Municipal Water supply separately from the Greater Wenatchee Regional Water Supply. The municipal supply of water for the City of Wenatchee, East Wenatchee Water District, and Chelan County PUD is provided by a Regional Water System that is operated by the City of

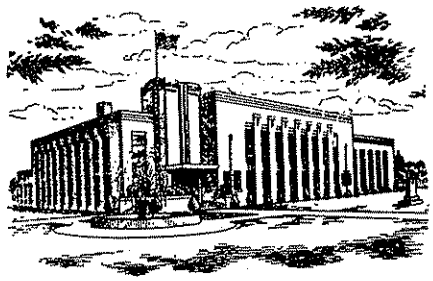
Wenatchee. The three entities, listed above, purchase wholesale water from the Regional Water System. The need for future water rights will be driven in large part by growth and economic development within the service territories of these three entities. Current estimates indicate that the region will reach its water right capacity by 2020. Additional water rights will be needed to serve the region once these water rights are fully utilized.

Thank you for considering these comments as Ecology moves forward on this very complex but important regional issue. Please feel free to contact me with any additional questions or concerns.

Sincerely,

Tracy Yount

Tracy Yount
Director, Environmental Affairs



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November 20, 2006

Derek I. Sandison, Regional Director
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Washington State Department of Ecology
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Yakima, WA 98902

Subject: Comments on Draft EIS, Columbia River Water Management Program

The following comments are offered for the record, regarding the programmatic EIS on the Columbia River Water Management Program.

Page S-3 S.2.2.1 Lake Roosevelt Drawdown

Final paragraph dealing with the diversion of Lake Roosevelt waters implies that the only tribe with interest on Lake Roosevelt is the Confederated Tribes of the Colville Indian Reservation. The Spokane Tribe of Indians is also a party with interests who must be included.

Page 2-23 Pgph. 2.5.1 Lake Roosevelt Drawdown

First paragraph. No mention made of the role the Spokane Tribe of Indians has regarding the Lake Roosevelt drawdown. The Spokane Tribe is intergral to the various management programs on Lake Roosevelt, yet no mention is made within this document as to the role the tribe will play with DOE in drawdown negotiations.

Page 3-14 Pgph 3.3.5 Air Quality in the Lake Roosevelt Area

Paragraph is characterized with some invective use of adjectives and adverbs describing the discharge of materials into the Columbia River by the smelter in Trail, B.C. Curiously, the Department of Ecology is currently engaged in a legal battle with the smelter, and this type of language does little to show objectivity by the Department. Compare this paragraph with the second paragraph under the Water Quality section of paragraph 3.4.2.1 where more objective phraseology is used, and construction is more relevant to the issues being presently investigated.

Page 3-52 Pgph. 3.7.1.3. Anadramous Salmonid Fishes, Steelhead Trout, 2nd pgph

Typo – second line of the paragraph – "form" should be "from".

Page 5.11 Pgph 5.1.1.11 Impacts at Lake Roosevelt for Non-Drought and Drought Year Withdrawals – Recreation and Scenic Resources and Aesthetics

The supposition is that the Biological Opinion will not affect lake levels, and the eventuality remains that Judge Redden may create some sort of flow pattern that could adversely affect Lake Roosevelt. In combination with the proposed drawdown, then, the recreational sites could be adversely affected, especially in the upper reaches of Lake Roosevelt, or those sites which are exposed with the drawdowns first.

The problem is simply the uncertainty of the judicial opinion, and what options are available should an adverse ruling cause heavy impacts upon the recreational, scenic and aesthetical values in the Lake Roosevelt region. Impacts could be strongly negative.

Considerations for socio-economic impacts could also be affected by the pending litigation outcome. In each and every category of consideration, effort should be made to address the potential additional effects the biological opinion may have upon the whole scheme.

Page 6-1 Pgph 6.1 Policy Discussion

Throughout this chapter, it is apparent that gaps exist in how the department intends to manage water in concert with the various federal agencies' cooperation. Throughout the EIS, little discussion is given to how the department and the agencies will mitigate conflicts in policies controlling flow and use of water in the Columbia River System. I could not help but sense a lack of vision and insight by the department as to the overall scheme of operations in the implementation of the Columbia River Management Program. For many years, the Lake Roosevelt 5-Party Agreement has been in effect which brings together the various parties in regular meetings to discuss operations of the reservoir behind the Grand Coulee Dam. The EIS makes no mention of the various agreements in existence, yet brings to the reader's attention many of the same facets that the federal river operations currently work with.

Unless a person is familiar with the federal operation, this EIS gives little indication of the immensity of the federal operations encompassing both the Columbia Basin Project and the entire Columbia River Project. Perhaps the EIS must be contained to its specific elements, however, the essence of this program is tied to cooperation and collaboration.

The fatal flaw that awaits is the inability of the department to have successfully negotiated with the Spokane Tribe of Indians. The Spokane Tribe of Indians has not been treated equally with the Confederated Tribes of the Colville Reservation. The agreement with the Colville's has caused great concern with not only the Spokane Tribe, but also the surrounding counties which abut Lake Roosevelt. Much remains to be done to correct this error. I would encourage the state and the Spokane Tribe to engage in serious negotiations as soon as possible. Much work is yet to be done, before the Columbia River Management Program can become a reality.

Thank you for this opportunity to comment.

Sincerely,

Merrill J. Ott

Merrill J. Ott
Stevens County Commissioner
Member, Columbia River Policy Advisory Group
Chairman, Columbia River Commissioner's Advisory Group

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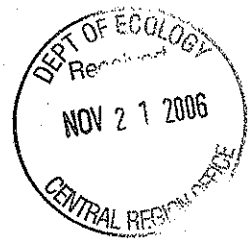
November 20, 2006



Mr. Derek I. Sandison, Regional Director
Central Regional Office
Washington State Department of Ecology 15 West Yakima Avenue, Suite 200
Yakima, WA 98902

RE: ECBID Comments on Draft Programmatic Environmental Impact Statement For the Columbia River Water Management Program dated October 5, 2006 – Ecology Publication #06-11-030

Dear Mr. Sandison:

Thank you for the opportunity to review the referenced document. The following comments are organized in the order in which they appear in the draft PEIS.

Page S-8, S.3.2.1 This section contains a bulleted statement stating there is a potential for the expansion of irrigated agriculture and additional decline of shrub-steppe habitat. This statement is at best an exaggeration and mostly inaccurate. Also I didn't find the supporting or source discussion in the main body of the draft PEIS. The Columbia Basin Project CRI MOU and the Odessa Subarea Special Study both target the replacement of the ground water irrigation with Columbia Basin Project surface water. Both have text acknowledging there may be some incidental conversion of dryland agriculture to irrigated agriculture using Columbia Basin Project surface water. "Incidental" is not quantified and is not known but is likely to be very minor relative to the amount of ground water replacement. Possible scenarios resulting in the new irrigation of dryland ag lands could be the avoidance of surrounding relatively small areas of dryland ag with irrigated land thus compromising the quality of the dryland ag, including some dryland ag in a specific service area to improve infrastructure economics or as a consideration in the acquisition of rights-of-way for new infrastructure. The portion of the Odessa Subarea within the Columbia Basin Project is almost entirely in dryland ag, irrigated ag, or Crop Rotation Program. There is very little, if any, shrub-steppe remaining on lands suitable for cultivation. Given the demand for ground water replacement water and for water to irrigate dryland ag it is very far fetched to think there will be any loss of shrub-steppe with the possible exception of minor area needed for rights–of way for new infrastructure.

Page 2-15, 2.2.3 and 6.2.2 Categorizing the funding of individual projects in the bright line manner described may exclude beneficial projects having only an out-of-stream or only an instream flow benefit. Many applicants may not have the ability to provide both but can provide one or the other. Ecology should develop a methodology to provide for the projects to provide the best overall combination of benefits.

Page 2-21, 2.2.13 and also 6.2.12 Is there enough information presently available about exempt wells to make it practical to include information about them? If more information is needed will that create delay or controversy? The exempt well topics tend to raise emotion with some stakeholder groups.

Page 2-22, 2.4.1 The conservation only approach cannot solve the entire water supply problem or even come close. 49 conservation projects by this District over an 18 year period yielded about 16,000 acre feet in annual water savings. When return flow effects were accounted for the net savings reduced to just over 10,000 acre feet per year. These are significant amounts and these types of efforts should continue and even be-intensified. But this is only a drop-in-the bucket compared to the need.

Page 2-24, 2.5.1 Acknowledge that the 30,000 acre feet applied for by Reclamation is for a secondary permit from an existing storage certificate. This is acknowledged in Chapter 5 but a corresponding statement here would be useful for readers who don't read the entire report.

Page 2-29, 2.5.2 and Pages 5.2.6 to 28, 5.2.1.3 Mention that a supplemental feed route will benefit the availability of ground water replacement water for Odessa Subarea by increasing operational flexibility for the East Low Canal.

Page 3-14, 3.3.5 Is Lake Roosevelt known to be "heavily" contaminated or just contaminated? Consider deleting the adverb.

Page 3-33 to 34, 3.4.2.2 and Pages 5-26 to 28, 5.2.1.3 Consider mentioning that Moses Lake is 303 (d) listed for phosphorous and describe Ecology's ground water and surface water technical studies for the cancelled TMDL. One or both of those studies describe the water quality benefit to Moses Lake of present feed to Potholes Reservoir and speculate that feeding through the entire summer could offer further water quality improvements. Both the W20 and Crab Creek alternatives have the potential to offer such improvements. The W20 alternative has the disadvantage of not being available through the entire summer. The Crab Creek alternative has a possible disadvantage of introducing additional phosphorous as it migrates through the Adrian Sink from Crab Creek to Rocky Ford Creek. Both have the advantage of increasing water circulation and flushing of phosphorous in the main arm of the lake below the mouth of Rocky Ford Creek.

Pages 4-34 to 35, 4.1.2.3 The conservation section appears to lack much discussion about the possible impacts to return flows being relied upon by down gradient water users as a source of supply. This is discussed a little in the water rights impacts section, 4.1.2.5, but is not referenced regarding physical impacts.

Pages 5-1 to 24, 5.1 This sub chapter is well written and comprehensive.

Pages 5-27, 5.2.1.3 In the first full paragraph should the reference to Rocky Coulee Creek be Rocky Ford Creek?

Pages 6-1 to 2, 6.2 Doesn't the mandate of the Columbia River Management Act, ESSHB2860, require the "Aggressively pursue storage option"? That doesn't preclude Ecology from pursuing storage proposals by various applicants but Ecology should maintain its now established initiative regarding new storage.

Pages 6-2 to 4, 6.2.1 As a methodology also consider:

"Phase I Seepage Analyses East Columbia Basin Irrigation District Water Conservation Projects": by Montgomery Water Group, Inc. August 2, 2004 and

"Phase II Seepage Analyses East Columbia Basin Irrigation District Water Conservation Projects" by Montgomery Water Group, Inc. October 6, 2004.

Ecology's Keith Stoffel and Lynn Coleman were involved in reviewing and editing both reports.

Pages 6-16 to 17, 6.2.8 Including backwater areas as described should be opted for unless it is likely to delay things or incite controversy.

Lower Crab Creek We support the comments offered by Joe Lukas, Assistant General Manager of Grant County PUD, particularly the discussion about Lower Crab Creek.

Please contact the undersigned if there are questions.

Sincerely,

Lisa D Lusk
for Richard Erickson

Richard L. Erickson
Secretary-Manager

RLE:ll

cc: Joe Lukas, Grant Co. PUD
Darvin Fales, QCBID
Shannon Mc Daniel, SCBID
Bill Gray, USBR
Mike Schwisow, CBDL

November 17, 2006

Derek I. Sandison, Regional Director
Central Regional Office
Washington State Department of Ecology
15 West Yakima Avenue, Suite 200
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Dear Mr. Sandison:

Attached for your consideration are comments on the Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program. These comments focus on Chapter 6.0, "Policy Discussions" and specifically on the storage and water conservation items.

My interest stems from having been involved in the Bureau of Reclamation-Washington State Department of Ecology Yakima River Basin Water Enhancement Project activities of the 1980's and 1990's culminating with Title XII of the Act of October 31, 1994. This interest has continued since my retirement with some involvement in Yakima River basin water resource activities.

Thank you for the opportunity to provide input on some of the policy issues of the Columbia River Water Management Program.

Sincerely,

Larry

Larry Vinsonhaler
2567 Lynx Way
Boise, Idaho 83705

Chapter 6.0 Policy Discussion

6.2 Selecting Storage Projects

The question being addressed is "how aggressively Ecology will pursue storage projects?" The most proactive role put forth in the Draft Programmatic Environmental Impact Statement (DPEIS) for the Washington Department of Ecology (Ecology), in addition to reviewing and screening storage projects proposed by applicants, is to propose storage options independent of those proposed by applicants. The illustration presented in the DPEIS is to use watershed plans to identify and pursue smaller storage projects (emphasis added), purchase stored water in Idaho and/or Canada, consider buying or negotiating changes in operations of federal facilities, consider studies for ASR or passive ground water recharge, and promote small scale projects that benefit small landowners.

If the foregoing illustrations define the most proactive role, then Ecology is truly not aggressively addressing the State's present and future water needs. It raises the question of the extent of Ecology's current role in the Columbia River off-stream storage assessment. It is suggested Ecology's role should be broaden to aggressively identify water resource needs, water supply deficiencies, and to pursue water storage projects in conjunction with federal and other interests through the investigation and development of storage projects.

Sections 6.2.1, 6.2.2, 6.2.3, and 6.2.7

Sections 6.2.1, 6.2.2, 6.2.3, and 6.2.7 are so interrelated they must be considered conjunctively. These sections and their interrelationships follow:

- A question addressed in Section 6.2.1 is "what are net water savings?" Are they only the consumptive use portion of conserved water or are they something broader in scope?

- Section 6.2.2 raises the following questions: (1) to what purposes will net water savings achieved from conservation projects funded from the Columbia River Water Supply Development Account (Account) be assigned, will it be to out-of-stream purposes only, to instream purposes only, or a combination of these purposes; and (2) how will proposed conservation projects be screened and ranked for funding from the Account?

- Section 6.2.3 addresses the definition of water acquisitions and water transfers. This is because the Columbia River Management Act (Act) restricts the area of use of acquired and transferred water obtained with funds from the Account to the Water Resource Inventory Area (WRIA) of origin.

- Section 6.2.7 deals with the aerial extent of the "no negative impact" on Columbia River July-August stream flows and Snake River April-August flows associated

with water withdrawals under Voluntary Regional Agreements (VRA). The question is how and where to measure whether a withdrawal results in a net reduction in stream flow in the Columbia and Snake Rivers during the foregoing respective months.

6.2.1 Calculating Net Water Savings from Conservation

Net water savings has been defined in the Trust Water Rights Program; the methodology for calculating it has not. This calculation is extremely critical to the extent conservation measures will assist in meeting out-of stream and instream water needs.

The Columbia River Water Supply Inventory and Long-Term Water Supply and Demand Forecast Report identifies a potential water savings of 955,000 acre-feet from plans of conservation districts (on-farm measures of about 530,000 acre-feet) and from irrigation districts (main conveyance and distribution system measures of about 425,000 acre-feet). If one were to assume that conservation projects resulting in conserved irrigation water of 955,000 acre-feet is the primary source of meeting present and future irrigation demands, it is an erroneous assumption. [1]

The irrigation district water saving estimate is essentially system losses from the point(s) of diversion to the farm deliveries, the major portion of which return to the river system as surface and sub-surface return flows. As such, the effect of reducing main conveyance and distribution system losses diversions is (1) in an unregulated river system to increase stream flow from the point(s) of diversion to the point(s) where return flow from the conserving entity reenters the river system, and (2) in a regulated river system to also permit the possible retention of the stored water portion of the diversion which would have otherwise been released. An example of the latter is the Yakima and Naches River systems regulated by 5 reservoirs with about 1 million acre-feet of storage capacity. There is merit in considering conservation projects in conjunction with storage space to regulate conserved water.

It appears entity conservation projects dealing with main conveyance and distribution system measures may not result in net water savings beyond specific stream reaches of the tributary if any diminishment of the existing flow regime downstream of the point(s) of return flow from the "action" is a constraint. This is because the conserved water results from a nonconsumptive use rather than from a consumptive use. If this were the case, then even a portion of the saved water on regulated tributaries which could be retained in storage facilities may have to be released to maintain existing stream flow. The potential constraint of no diminishment of the downstream flow regime must be addressed.

It appears net water savings are appropriately defined by the Trust Water Program. However, the method of determining net water savings must include more than

[1] The reasons that the 955,000 acre-feet does not all equate to net water savings is aptly explained in the Executive Summary of Ecology's Report on pages ES-10 and 11.

quantifying the conserved water. Other factors such as the characteristics of the water supply (unregulated and regulated), water rights downstream of the point(s) of diversion and return flows, the policy regarding diminishment of existing stream flow, and the location of the conserving participant (unregulated or regulated tributary or the Columbia River) also needs to be assessed. Neither alternative appears to express the factors which may be needed to determine net water savings. However, it is noted, the Executive Summary on page ES-11 recognizes the need for flexibility in matching individual conservation projects and water right applications.

6.2.2 Funding Criteria for Conservation Projects

This section deals with two issues (1) assignment of net water savings funded from the Account, and (2) criteria for screening and ranking conservation projects. These two issues are discussed below.

Assignment of Net Water Savings

It is assumed conservation projects could be implemented on Columbia River tributaries or on the main-stem river. With respect to tributaries, it appears consideration needs to be given to whether it is an unregulated or regulated tributary and the policy regarding the diminishment of stream flow downstream of the point(s) of return flows of the conservation project participant.

In figure 6-2 of the DPEIS, alternative 4C-1 indicates the hypothetical point where net water savings would occur and the point where net water savings would be measured for a tributary project. It is possible, the only net water savings resulting from tributary projects which would extend downstream of the mouth of the tributary may, depending on how net water savings are computed, be just the consumptive use portion associated with on-farm conservation projects. If so, the magnitude of net water savings from conservation projects would be significantly diminished. It may then be desirable to assign all of the net water savings to mitigation of Columbia River permits authorizing out-of-stream beneficial use. There would of course be instream flow benefits in the tributary.

It seems there may be the need for further assessment of net water savings prior to making a determination of how these savings are to be assigned. As referenced in the foregoing comments on Chapter 6.2.1, the DPEIS indicates the need for flexibility in matching individual conservation projects with water right applications. Such flexibility may also be desirable in assigning net water savings within some specified parameters.

Criteria for Screening and Ranking Conservation Projects

In regards to the criteria for screening and ranking conservation projects it is suggested Ecology's Columbia River Policy Advisory Group may want to review appropriate sections of the document prepared by the Yakima River Basin Conservation Advisory

Group entitled *The Basin Conservation Plan for the Yakima River Basin Water Conservation Program* and the *Appendix to the Basin Conservation Plan.*

6.2.3 Defining Acquisition and Transfer

The concern expressed is that the Act prohibits Ecology from expending money from the Account on conservation projects that will result in water acquisitions or transfers from one WIRA to another. The term "water acquisition and transfer" is not defined by the Act. However, it is defined to include net water savings realized from conservation projects then use of such net water savings is restricted solely to the WIRA of origin.

In the Yakima River basin water acquisitions and water transfers are considered separate transactions from water realized from conservation projects. In this instance there is federal legislation authorizing the Yakima River Basin Conservation Program and funding and implementation of conservation projects is contingent on "diversion reduction agreements" with the participating entity specifying the use of the conserved water, in this case two-thirds to instream flow and one-third retained by the irrigation entity. Further, conserved water is being used within the Yakima River basin.

It seems desirable to define water acquisitions and transfers as those related to direct purchase and/or gift separately from conservation projects in which case under the Act the water could only be used in the WIRA of origin. By so doing, this would result in the option of net water savings from conservation projects being used in other WIRA's. However, it is suggested this entire matter be referred to the State legislature with the suggestion that the restriction on the area of use of water acquisitions and transfers in solely the WIRA of origin be amended.

6.2.7 Defining "No Negative Impact" to Instream Flows of the Columbia and Snake Rivers

This issue concerns the question of the measurement point to determine if a proposed water withdrawal has an impact on the policy of "no negative impact to stream flow" in the Columbia River in July and August and the Snake River in April through August as the result of a Voluntary Regional Agreement (VRA). How and where to measure the "no negative impact" has not been defined. It is indicated however, that net water savings from a tributary conservation project would be measured at the mouth of the tributary.

Figures 6-2A and 6-2B of the DPEIS illustrates the four alternatives presented in section 6.2.7. It seems appropriate to align the area of consideration for determining impact with the management units for instream flow in WAC 173-563-040 (1) as illustrated in Alternative 4C-2 of Figure 6-2A.

The 6.2.7 discussion is confined to the legislative policy of "no negative impact" to instream flows in specified months as a result of a VRA. But Ecology raises further

questions of legislative authority as to the non-specified months on page 4-49 of the DPEIS as follows:

> The administrative rule for the Columbia River establishes instream flows for all months of the year, not just July and August. By providing that if a new water right does not have a negative impact on the Columbia River flows during the months of July and August, impacts to instream flows have been mitigated, the legislature decided that water is available during the other ten months of the year. Further, by directing Ecology to only consider impairment of instream flows during the referenced summer months, the legislature has effectively made an overriding consideration of the public interest determination that the adopted instream flows outside of July and August will not be protected.
>
> This appears to be inconsistent with RCW 90.90.030(8), which prohibits any interpretation or administration of the section regarding VRAs "that impairs or diminishes a valid water right or a habitat conservation plan for purposes of compliance with the federal endangered species act."

The Ecology views quoted above are an interpretation of legislative intent on a fundamental and critical foundation policy of the Act. It appears the "no negative impact" policy should be clarified by the Legislature for all months of the year in relation to new water right applications as may be filed with Ecology within or outside of a VRA process.

While the question of how to measure the "no negative impact" policy is not addressed, it seems clear there is to be no net reduction in flow in the specified months. However, what is the baseline against which this is to be measured? Is this to be based on some historical flow period of monthly averages such as used in the Federal Columbia River Power System Biological Opinion, or some other base?

THE LANDS COUNCIL

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423 W. First Ave., Suite 240
Spokane, WA 99201

November 17, 2006

Derek I. Sandison, Regional Director
Central Regional Office
Washington State Department of Ecology
15 West Yakima Avenue, Suite 200
Yakima, WA 98902

RE: Comments on the Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program

Dear Mr. Sandison

The Lands Council (TLC) is a non-profit member organization that works to safeguard and revitalize our Inland Northwest forests, water, and wildlife through advocacy, education, effective action, and community engagement. The members, staff and board of TLC appreciate the opportunity to comment on the Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program.

It is the understanding of The Lands Council that the Columbia River Water Management Program is currently under development to assist in implementation of the Columbia River Water Management Act. This Act, also known as ESSHB 2860, directed the Washington State Department of Ecology to "aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses." We understand that the development of new water supplies would include construction of small and large reservoirs, aquifer storage and recovery (ASR) projects, conservation efforts and other projects that are yet to be determined. It is also our understanding that these new water supplies would ultimately go toward issuance of pending water rights, salmon recovery, conversion of interruptible water rights to uninterruptible water rights, community/industrial/economic development and instream uses. Of these new water supplies, 1/3 would be allocated to instream use while 2/3 would be made available to out-of-stream uses.

The Lands Council has several concerns and questions regarding the various proposals within the PDEIS, as well as how those proposals will ultimately affect the environment and natural resources of Washington State.

Overall Concerns

1. The most recent Biological Opinion suggests higher flows for salmon between April and August. Currently these flows are not being met at Priest Rapids and McNary Dams. Biological Opinion flows are also not being met during parts of the year below Bonneville dam. During low flow years, flows past these dams drop farther below the Biological Opinion Flows. With endangered salmon at constant risk of low water flows, how was the 1/3 to 2/3 rule developed? Would it not be more appropriate to provide additional water to boost salmon flows during low flow periods?
2. How was it determined that April through August were the only months that need additional flows? With the lifecycle of salmon using the river system at different times of the year, why are these months the one time of year focused on within the PDEIS?
3. There are other months when the Biological Opinion flows are not met at Bonneville, McNary and Priest Rapids dams, especially during low water flow years. Will conversion of interruptible water rights to uninterruptible water rights allow for withdrawals during these low flow periods? Would there still be a means of interrupting these water rights to add flows to help protect salmon?
4. The idea of "New Water" is very misleading to people from the general public when reading this PDEIS. After talking with several members of The Lands Council and the general public, it became clear that this wording is confusing. People generally thought that "New Water" meant that there was water coming from a distinctly different source, other than the Columbia River, but that the water was being used in the Columbia. One person even commented "are they flying in icebergs as a new source of water or pumping it over from another river system?" It should be spelled out in the PDEIS that this "New Water" is actually the same water, but that it could be stored and released at different times of the year.

Dam Building

This section is being written under the assumption that the Hawk Creek site will be chosen for the development of a large off-stem storage project. Ecology and the Bureau of Reclamation have stated that they hope to provide water to the Columbia Basin Project through the development of a large storage project. Since the Hawk Creek site is the only site currently under consideration above Grand Coulee Dam, the diversion point for the Columbia Basin Project, it was assumed that this would be the likely candidate for the dam and reservoir construction. This location would also provide the greatest flexibility in management and utilization of the new water supply.

1. Construction of a dam at this location would inundate numerous cultural sites that are of importance to both the Spokane and Colville Tribes. How would these losses be justified and mitigated? Will the tribes allow for the loss of these sites without proper compensation?
2. This site could be affected by the yearly draw down of Lake Roosevelt. During this time, the surface of Lake Roosevelt is several miles from the proposed site and close to 100 feet lower than during full pool. Pumping to the reservoir during

these times would require extensive alterations to the channel floor or construction of long access penstocks. How would these factors be addressed?

3. During release of water from the reservoir, would water flow freely over the current waterfall below the dam site or would it flow back through the water supply penstock? Would these actions cause scouring on the waterfall and redistribution of sediments? Would reverse flow through a penstock provide a means of harnessing lost hydroelectric power? If water were released when the elevation of Lake Roosevelt is lower than full pool, would there be an effect on Lake Roosevelt sediments?
4. In the constructed reservoir, would water be drawn down or reservoir refill occur during waterfowl nesting seasons? If so, how would waterfowl be affected (abandoned nest sites, flooded nest sites, loss of habitat)? Would it be possible to operate the reservoir to reduce or eliminate these impacts?

Canal Construction

1. The PDEIS looks at possible construction of the East High Canal, a project that is currently in deferred status in the US congress. Looking at initial plans, this canal would cross large expanses of basaltic bedrock. The construction costs of this canal system would be in the billions of dollars. How will this project be funded and how will taxpayers benefit?
2. Initial drawings of the East High Canal system show that it would cross large areas of intact shrub-steppe habitat. This habitat is currently in decline in Washington State, with less than 40% of the historical area left. How will canal construction further fragment this habitat? Will there be measures in place to protect this habitat from further degradation should agricultural conversion occur near the canal?

Habitat Loss

1. Prior to community development and agricultural conversion in the Columbia Basin, it is estimated that there were 10.4 million acres of shrub-steppe habitat. In 1996, a study showed that only 4.6 million acres remained: a loss of almost 60 percent. Since then, there has certainly been an additional loss of this fragile habitat that is crucial to several endangered species. With additional water supplied to agriculture and communities, will more of this habitat be lost and how much?
2. Current sites proposed for large off-stem storage projects would result in the loss of thousands of acres of habitat. These losses include prime waterfowl nesting wetlands, habitat used by various threatened and endangered species and other habitats that are used throughout the year for other species not currently listed. How will endangered/threatened species conflicts be resolved? Would habitat loss associated with dam construction cause other species to enter a protected status?

Economics

1. Construction of the large storage dam and canals would cost several billion dollars with minimal returns on this investment. Currently, irrigators within the Columbia Basin Project receive irrigation water at extremely low prices. The

PDEIS actually shows a net loss of funds for many crops that would receive the irrigation water. Can this expense currently be justified? How would these projects be funded? It would be nice to see a cost/benefit analysis of the projects and the expected returns to farmers, communities and industry.

2. The construction projects within the PDEIS appear to primarily benefit large agricultural businesses. How would average citizens benefit from these projects? Would average citizens be required to help fund these projects through increased taxes or state bonds?

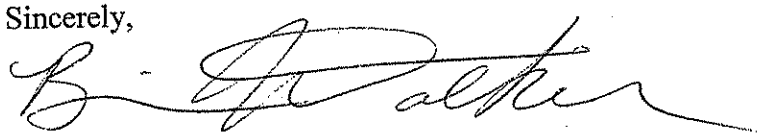
At this time, The Lands Council cannot support the construction of large dams and canals to provide "New Water" to fulfill water right requests or for conversion of interruptible water rights to uninterruptible water rights. We would, however, like to see strict conservation programs put in place to help reduce the amount of water that is currently being wasted through inefficient irrigation practices (flood irrigation and unlined/uncovered irrigation canals), city irrigation plans and for wasteful industrial developments.

We would also like to see a return to dryland farming. Agriculture should work with the environment, not against it. With less than 10 inches of rainfall per year within the Columbia Basin, farmers should return to farming practices that do not require significant application of irrigation water to provide a beneficial crop return. Under current irrigation practices, the effective precipitation is over 40 inches per year. Many farmers that do not receive irrigation water are able to produce crops without requiring additional irrigation. A return to these crops that do not require large quantities of extra water would be highly beneficial to water conservation efforts

We believe that through strict conservation practices in communities, on farms and by industry, enough water would be saved to provide a large portion of the water that is currently being sought. This savings in water would allow for smaller projects to be considered that would not cause large-scale environmental degradation.

Thank you for the opportunity to comment on the Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program. Furthermore, The Lands Council also supports the comments made by the Columbia Institute for Water Policy and The Sierra Club. We look forward to your responses on all of these comments.

Sincerely,



Brian Walker
Watershed Program Director

Stopping the Dams ....

I received the Spokesman Review paper on October 2, 2006 and read with a sickening feeling in my stomach about the proposed dams being considered on Hawk Creek, Foster Creek, Sand Hollow and Crab Creek. I contacted the author of the article, James Hagengruber, and he sent me the email address where all of the information can be found. From that email address, there are links to other pieces of information. The email address is http://www.ecy.wa.gov/programs/wr/cwp/crwmp__info.html. (between "crwmp" and "info" are 2 underscores). There are documents of many pages and like all government agencies, you will be awash in information that you need to plow through.

As best as I can tell, House Bill 2860 which was sponsored by Representatives Grant, Newhouse, Hankins, Haler, Walsh and McCune and was proposed to figure out a water management plan of the Columbia River Basin "to meet the economic and community development needs of people and the instream flow of fish". In early 2006, Governor Gregoire signed the bill into law. With this came an aggressive program to figure out how best to meet the water needs for irrigation, fish and development through new "dams" and conservation. This legislation does not require building new "dams" i.e. storage facilities but it is part of the plan.

From this web site, I found out there were 4 public meetings being conducted. The open houses will be held from 4 to 7 p.m. at these locations:
Oct. 24 - Moses Lake: Big Bend Community College, Advanced Technologies Education Center (ATEC), 7662 Chanute Street N.E.
Oct. 25 - Colville: Agricultural Trade Center, 317 W. Astor
Nov. 1 - Kennewick: Three Rivers Convention Center, Meeting Rooms E & F, 7016 W. Grandridge Blvd.
Nov. 7 - Wenatchee: Wenatchee Convention Center (The Coast Wenatchee Center Hotel), Fuji Room, 201 N. Wenatchee Ave.

Since the proposal of the dam in Hawk Creek affected my father, Wayne Geissler who lives in Indian Creek and the rest of my family, my husband and I decided to attend the meeting in Colville. On the way up to Colville from Spokane, we chatted back and forth as to why the meeting was in Colville and not in Davenport or Odessa, etc.

When we came to the meeting, it was an informal affair with different stations with information about the water and the ideas they had come up with. Our first encounter was with Brian Watkins who is with the Lands Council in Spokane and we told him right away we are against all 4 dams being proposed. We thought he was part of the group of people who set up this meeting but he was not. We told him we were going to fight this. He said the Lands Council was aware of the proposals and already were planning to become involved to stop them. He also mentioned there were other groups that did not want the dams built. There were only about 8-10 people that attended the meeting when we left at 6 p.m.

I asked many questions to the people who put on the meeting...such as "why the meeting here in Colville?". Tim Hill, who is with the department of Ecology, could not answer that. I asked why there was not any notice in the Davenport Times, Odessa Record, etc. He did not have an answer for that either. They also did not put any notice of the meetings in the Spokesman Review. They did put notices in the Yakima, Wenatchee and the Colville papers none of which reached all of the people that could be impacted. We explained to Tim Hill that the perception is reality and we were very concerned that the people impacted by these dam proposals were not being given sufficient notice to attend the meetings. Our trust in government agencies is not running very high these days.

As of now there are 450 pending water right applications that have not been approved. I understand we need water, need to help the salmon and need irrigation. I understand we need some development but maybe an answer to some of the development is NO. If there is not enough water to support your development, maybe it should not be built. After all, Eastern Washington is a desert.

What I don't understand is why they want to cover acres of wild life habitat and peoples houses to gain what they need? There are other sources of renewable energy, which needs to be considered. This would generate energy that would not have to be from hydropower. This would take away the demand for hydropower and would enable water to be there for the fish if this is 33% of their concern as they stated. (I do have some suggestions for the salmon recovery). To build storage dams, taking water from the river and using it to generate electricity...which was not mention in the press releases...yes, generate electricity and to build another dam to correct the problems created by building a dam in the first place doesn't seem to me to be the best solution. I also understand dams serve many purposes.

I was told there were about 60 people at the 1st meeting and one person with the Ecology group told us that Odessa people were against the dam. I do not know if this is accurate or not and would like to hear from anyone who attended that 1st meeting.

I am against all 4 dams being put in. There were storage plans made when they build Grand Coulee that have not been completed. The plans are already in place if this is what they decide to do. My husband and I are going to continue to fight this. Our lands will be taken by eminent domain and paid "fair market price" determine by the government. There will not be any "lake front property as the water behind the dam at Hawk Creek will ebb and flow...It will be drawn down in the summer time....Probably will only have 100 to 200 feet behind the dam in summer and be filled in the spring. In the dry years there may be little water behind this storage dam.

In my opinion, we as a community, have a lot to lose if this dam is built...whether it is here or anywhere else. We need to get the message to the people who are in place to make a decision regarding this. There is form you can fill out and state your opinion about these proposed dams or the entire Programmatic Environmental Impact Statement for the Columbia River Water Management Program. You can obtain a form on-line at the email address above or from Jan Bowdish in Davenport @509.725.6731 or I can fax or email you a copy. Call me...509.990.8759 & leave a message or email me yeyler@comcast.net. OR you can write directly to Department of Ecology; Attn: Derek Sandison; 15 West Yakima Avenue, Suite 200; Yakima WA 98902 and note this is for "Comment on Programmatic Environmental Impact Statement (EIS)". This needs to be sent by November 20th, 2006. As always, you can write your legislator regarding your opinion about this.

I will continue to write articles on this subject as long as it is a threat to our way of life and plans for our future. Yvonne Eyler

WASHINGTON STATE DEPARTMENT OF ECOLOGY

Comment Form

Draft Programmatic Environmental Impact Statement (EIS)

@ Colville WA Open House

Please provide us with your comments on the Draft Programmatic EIS for The Columbia River Water Management Program. You can complete this form and leave it in the box provided or mail to the address on the back. In addition, you can email your comments to dsan461@ecy.wa.gov.

Comments on the Draft EIS must be received by 5 p.m. November 20, 2006.

See letter. Building these storage Dams will not solve your problem. Sometimes we need to say no to progress & get to basics. We don't need more housing in an area that can't support it. Why don't we look at nuclear which would reduce the need for hydro power & may ↑ the water that could be used ~~differ~~ differently. There are too many projects that continue to encroach on habitat. We need to figure out something else. Why should we build these when pretty much only private citizens will benefit - Not the whole society. LET'S work togther to figure out Something else

I own property in Indian Creek.

Sincerely
Yvonne Ecker
10411 E 24th Ave
Spokane VLY, WA
99206

United States Department of the Interior

BUREAU OF RECLAMATION
Upper Columbia Area Office
1917 Marsh Road
Yakima, Washington 98901-2058

IN REPLY REFER TO:

NOV 20 2006

UCA-1614
ENV-2.00

Mr. Derek Sandison
Central Regional Director
State of Washington Department of Ecology
15 West Yakima Avenue, Suite 200
Yakima, WA. 98902

Subject: Comments on the Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program

Dear Mr. Sandison:

Thank you for the opportunity to comment on the Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program. Please find enclosed our comments regarding this document.

Our main concern is that the document identifies several immediate actions, but does not distinguish between the Bureau of Reclamation and the State's role in these actions. The State's proposed action is to fund and provide permitting for these projects; Reclamation is physically taking these actions, i.e. the supplemental feed route, drawdown of Lake Roosevelt, etc. The distinction between Ecology and Reclamation's responsibilities needs to be clearly defined.

Additionally, the Odessa Special Study is not an early implementation action, while the Lake Roosevelt drawdown contract is an early action. While both projects involve deliveries of project water to Odessa, they are separate and distinct.

Also ensure that the descriptions of the actions are accurate. For example, on page 2-9, Section 2.1.2.1, the Odessa Special Study is described as including a 30,000 acre feet diversion, which is actually part of the Roosevelt drawdown project.

Finally, the latest Odessa report, dated September 2006, is likely a more appropriate source for the final Environmental Impact Statement than the February 2006 Plan of Study.

Again, thank you for the opportunity to comment.

Sincerely,

Gerald W. Kelso
Area Manager

Enclosure

cc: Ms. Debbie Bird
Superintendent
National Park Service
Lake Roosevelt National Recreation Area
1008 Crest Drive
Coulee Dam, WA 99116
(w/copy of enclosure)

Comments on the Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program

Reclamation

November, 2006

Page	Paragraph	Comment
S-2 & S-3		The description of the proposed actions does not clearly describe the State's versus Reclamation's portion of the proposed actions.
S-3	S.2.2.1	These actions where requested by the State in the development of the 3-party MOU. Reclamation is cooperating with the State on these actions, but these were State proposals not Reclamation proposals.
S-3	S.2.2.1	Last sentence should include the Spokane Tribe of Indians in addition to the Confederated Tribes of the Colville Reservation.
S-3	S. 2.2.2.	Second sentence needs to include East Columbia Basin Irrigation District as well as the South Columbia Basin Irrigation District.
S-8	S.3.2.1	While the additional drawdowns are within current operations NEPA will have to be done to enter into the contracts and agreements with the State. As part of that process potential impacts will need to be addressed.
S-8	S.3.2.1	1st paragraph, 2nd sentence: Delete the words "Reclamation has determined that the …" and replace as follows: "Drawdowns of the lake are within normal operations of the reservoir. National Environmental Policy Act (NEPA) compliance will be completed by Reclamation on Federal actions." There is an incorrect assumption that there will be expansion of irrigated agriculture.
S-9	S.3.2.2	The proposed alternative feed route would not result in a change in cropping patterns or new irrigation in the South Columbia Basin Irrigation District. The amount of feed to Potholes reservoirs and deliveries to the South District would not change as a result of this action.

S-9	S.3.2.2	1st paragraph, next to last sentence. Change to read as follows: "The supplemental feed route is intended to provide a more reliable water supply to the South Columbia Basin Irrigation District. Mitigation/enhancement measures would be developed in Reclamation's NEPA for the project."
1-1		3rd paragraph, next to last sentence. Delete "Reclamation has determined that the Lake Roosevelt drawdown does not require NEPA documentation because such " and change to read "Although drawdowns were included in the original authorization for the project, Reclamation will do NEPA on any Federal action for use of water such as water service contracts, trust water rights, etc. Such projects will require Ecology to issue permits and/or . . . SEPA."
1-3	1.3	The described competition between salmon and irrigation is perhaps overstated. Irrigation in the Columbia Basin consumes about 10% of the total discharge of the system. While conflicts between irrigation and salmon have arisen this text needs to put it into perspective relative to the other factors which have affected salmon populations.
1-8	1.4	The Odessa Subarea Special Study is not referenced in Section 1.2 as stated in the last sentence.
2-5		The Yakima Basin Storage Study is a feasibility level study not an appraisal study.
2-5		3rd paragraph, last line, change to read: "It is estimated that a feasibility study and EIS would require three years for completion."
2-5		Last paragraph, change to: Reclamation is also involved in the Yakima River Basin Water Storage Feasibility Study. One of the storage alternatives identified in the study is a large reservoir, approximately 30 miles east of Yakima, identified as the Black Rock Reservoir.
2-8		About 121,000 acres of the Odessa Subarea are located within the authorized boundaries of the Columbia Basin Project.

2-8		Last sentence in partial paragraph at the top of the page: Should read: "During the Appraisal Assessment analysis Reclamation evaluated Wymer reservoir in conjunction with Bumping Lake Enlargement and the Keechelus-to-Kachess pipeline by filling it with water available from the Yakima River when the flows exceeded current target flows. Later, Reclamation evaluated Wymer with a Pump Exchange from the mouth of the Yakima River and filling Wymer from increased winter flows from Cle Elum reservoir and excess flows in the Yakima River."
2-8		Last line on page, change "120 acres" to 121,000 acres.
2-8		"Odessa Subarea" should be changed to "Odessa Ground Water Management Subarea."
2-8	2.1.2.1	There are 121,000 acres of groundwater irrigated acres within the Special Study area that are located within the Odessa Subarea, not Odessa Subarea acres
2-9		First line on page, change "230 acres" to 49,000 acres.
2-9		First bullet, change to read: "Construction of a scaled down version of the East High Canal . . ."
2-9		2nd paragraph, 1st line change "144,000 to 360,000 acre-feet" to "160,000 to 520,000 acre-feet."
2-9		4th bullet in second set of bullets, change to read: "Construction of new off-channel reservoirs at Dry Coulee, Rocky Coulee, Black Rock Coulee, Lind Coulee and Lower Crab Creek, all in Grant County."
2-9		Second paragraph. The range of water supply needed for the alternatives are 160,000 to 520,000 acre-feet. Modification of operations to existing storage facilities may be needed but they are not considered "substantial" modifications.
2-9		The sentence that starts "Among the storage options under . . . " Is more accurately revised to state "Among the <u>water supply options</u> under consideration . . ." The bulleted list that follows is not limited only to storage options.

2-9		The first bulleted item, "Diversion of an additional 30,000 acre-feet from reoperation of Lake Roosevelt" is not included in the Odessa Special Study.
2-9		Fourth bulleted item. Black Rock Coulee should be deleted from the list. It is not a water supply or storage option for the alternatives. It is strictly a reregulating reservoir that is needed for alternatives using the East High. Lower Crab Creek should be added to the bullet.
2-9		Reclamation's NEPA compliance will be initiated in 2008.
2-9		1st bullet: Add, "To serve the current groundwater irrigated lands." 3rd bullet: Add, "Enlargement and partial extension..." 4th bullet: Add, "north of Interstate 90." 3rd paragraph: Change June to September.
2-11		"Yakima Basin Storage Study" to "Yakima River Basin Water Storage Feasibility Study."
2-21	2.3	It would be more accurate to indicate that Ecology would not have a role in implementation of the supplemental feed route, but the project may still be implemented by other parties.
2-23	2.5.1	1st paragraph, line 2, change to read: "As part of the Memorandum . . . . (Section 1.3.1.1), Reclamation will file appropriate water right applications . . ." 1st paragraph, line 6, add "Spokane Tribe of Indians" along with the "Confederated Tribes of the Colville Reservation."
2-24	2.5.1.1	The full 82,500 acre-feet would not be diverted from FDR. Only the 30, 000 acre-feet for the Odessa sub-area would actually be diverted at FDR. The rest of the water would be released from FDR into the river and subsequently diverted at points downstream.
2-24	2.5.1.1	2nd paragraph, line 3, change to read: ". . . approximately 40 feet in an average year and as much as 80 feet in a high flow year for flood control space."

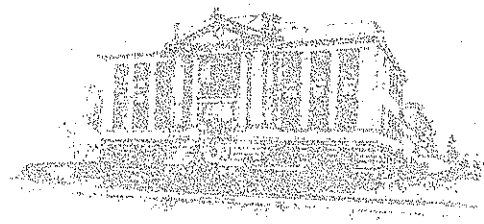
2-27	2.5.2	1st paragraph, line 3, change to read: "Potholes reservoir is located just south of Moses Lake and has 322,200 acre-feet of active storage and a total of 511,700 acre-feet." 2nd paragraph, line 11, change "204,000" to "231,000."
2-28	Fig 2.4	Figure should be modified to show Rocky Coulee Wasteway and continuation of the East Low Canal to the south.
3-3	Table 3-18	The treaties generally reserved fishing rights at usual and accustomed places, but the hunting privilege was reserved for open and unclaimed lands.
3-7		Reclamation and the Corps of Engineers operate the dams that make up the FCRPS while Bonneville markets the power excess to individual project needs.
3-7	3.1.2	Paragraph 2, 2nd sentence should read: "Because of World War II, work on the irrigation system was delayed and the first Project water deliveries were delayed until 1952."
3-15		The average annual runoff figure reported is as measured at the Dalles rather than at the mouth of the Columbia River.
3-18	3rd paragraph	"Flow targets" needs to be replaced with "flow objectives."
3-19	Table 3-4	All Columbia Basin Project water rights have a pre-1980 priority date. Table note should be rewritten as follows: "The Columbia Basin Project was authorized to irrigate 1,029,000 acres at its completion; currently the project irrigates about 671,000 acres."
3-19	1st paragraph	Again, replace term "flow targets' with "flow objectives."
3-20	3.4.1.3	Cold Springs and Haystack reservoirs are located in Oregon.
3-21		Paragraph 2, line 4, change 621,000 to 671,000.

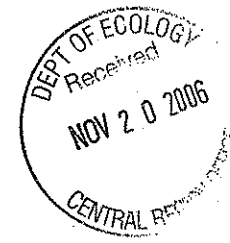
3-21	2nd paragraph	CBP does not use water stored in Banks Lake and Potholes Reservoir only. Might be best to state that the CBP uses water initially stored in Lake Roosevelt and then diverted to Banks Lake and Potholes Reservoir for delivery to CBP lands. Also about 671,000 acres are irrigated not 621,000 acres.
3-23		The 361,000 acre figure apparently applies to lands irrigated that produce a crop, not to all irrigated lands.
3-23		Paragraph 2, line 1, change "Columbia River Basin Project" to "Columbia Basin Project."
3-23		Paragraph 2, line 7, change "over 620,000 acres" to "over 671,000 acres that are currently irrigated out of the authorized total of 1,029,000 acres."
3-23	2nd paragraph	Should be revised to state "The CBP currently irrigates about 671,000 acres and is authorized to irrigate up to 1,029,000 acres." The 6th sentence should be deleted. The 7th sentence is not correct. The Columbia Basin Project uses an average annual 2.65 million acre-feet as measured at the Main Canal during the 2000-2004 period.
3-28		Paragraph 2, line 1, change to read: "Winter/spring spill from Potholes Reservoir, if required, is passed down Lower Crab Creek. Naturally occurring flood water can also be passed down Lower Crab Creek." Delete the entire rest of this paragraph.
3-29	Table 3-7	In previous studies, rule curves are usually not included in public documents and are considered "sensitive" information. We ask that the State remove this information.
3-37	3.5.3.1	The discussion in this section is not relevant to the Lake Roosevelt drawdown although that is the section title. This is actually the Odessa Subarea discussion. References Reclamation's Odessa Plan of Study (February 2006) to support some of the factual statements about the state of the aquifer which is not a credible source. Ecology must have some technical documents that they can use to support these statements.

3-46	3.6.1.6	There is a quote relative to water rights and harm that refers to "healthy fish populations." The take provisions apply to actual individuals of the listed species, not to populations. Populations of listed species may not be healthy, but if the activity does not result in the actual harassment to individuals of the species then there is no "take."
3-46	3.6.1.6	Discussions here seem to mix the concepts of take and jeopardy. Jeopardy is associated only with actions where the federal government funds, carries out, or approves the activity. The take prohibition applies to all actions, but only deals with the actual take of individuals of listed species.
3-86		There have been a number of surveys in the Crab Creek area, most notably work done by James Chatters, specifically: Survey and Evaluation of Cultural Resources along Crab Creek and Dry Coulee, Grant County, Washington. Office of Public Archaeology Institute for Environmental Studies, University of Washington. January, 1979.
4-48		Last paragraph, 1st line. Meaning unclear.
5-18		Last line of paragraph 3, double check number and date of Drought Relief Act. This was recently re-enacted so it would have a current date and new P.L. number.
5-20		It would not be physically possible to store the Trust Water Program instream flow component in Banks Lake and then release it in a drought year. The instream flow component was intended to offset any impacts created by the diversions. To the extent the benefits of the releases are insignificant; they are offsetting what must be insignificant impacts from the diversions.
5-27		The alternate feed routes do not result in increased feed to Potholes. The amount of feed remains the same and there is no change in the relative amount of feed or the relative amount of irrigation runoff/return flow into the reservoir.
5-27		The Crab Creek feed route would not be longer than the current route. The W-20 and Frenchman Hills routes would be longer but feed would end in mid-May. It seems unlikely that the alternative feed routes would have any affect on water temperatures in the receiving waters.

5-28		It is unclear how contaminants in Potholes, such as fecal coliform or 2,3,7,8-TCDD could increase as a result of either the Crab Creek alternative or the W-20 proposal. The water to be fed comes from Banks Lake via Billy Clapp no matter which route is used; the routes do not involve activities that would likely increase loading of those contaminants.
5-29		The supplemental feed routes will not change the storage in Potholes Reservoir.
5-30		Crab Creek is not a navigable water of the state.
5-31		The channel can be dry for years at a time and is seldom flowing. This suggests that it is only dewatered during low flow periods, which is in error. The stream seldom supports any fish populations.
Appendix E		WRIAs, 37, 38, 39 (Yakima Basin), 2nd sentence: Should say: "The goals of the storage study are to provide a more normative flow condition for anadromous fish, a more reliable water supply for proratable irrigation water users, and water for future municipal water needs."
Appendix E		WRIAs, 37, 38, 39 (Yakima Basin), 3rd sentence: Change to read: "...evaluating at least two alternatives..."

Board of County Commissioners
BENTON COUNTY





November 20, 2006

Mr. Derek Sandison, Central Regional Director
Department of Ecology
15 West Yakima Ave., Suite 200
Yakima, WA 98902

Dear Mr. Sandison:

The Board of Benton County Commissioners has reviewed the Draft Programmatic EIS for the Columbia River Water Management Program of October 9, 2006. Our Board would like to offer the following responses, comments and considerations for new water rights from the Columbia River.

There are four Columbia River Water Management Program components in sub-section II which we would like to address; namely,

2.1.2.1 Storage Component

- Storage projects must be aggressively pursued using the watershed planning process under R.C.W. 90.82. The draft report has six sites identified – Hawk Creek, Foster Creek, Sand Hollow, Crab Creek, Black Rock Reservoir and the Walla Walla Pump Exchange.
- Department of Ecology should be involved with Bureau of Reclamation on building a large reservoir in the Columbia River System;
- No new storage reservoir has been built in the Yakima River Basin in the last 80 years. "Not Acceptable".....We must meet the needs for the economic community and development needs as well as instream flow for fish.

2.1.2.2 Conservation Component - Net water savings from conservation. First, what conservation projects can be considered? Second, what conservation projects will result in immediate savings that accrued wet water savings can be applied for new water right from the Columbia River?

- The distance between the point of savings and the river, which creates a time lag;
- The dynamics of natural recharge and other return flows to the river, which complicates the analysis of conservation savings;
- The ability to quantify and monitor consumptive versus non-consumptive water savings;
- Please review the draft supply inventory & long term water supply and demand forecast of Oct. 2006. Not user friendly. Conservation districts submitting information – their cost $782 million. Irrigation districts identified 82 projects totaling 425,000 AF of water at a cost of $450,000 million. The point here is that the irrigation district projects are primarily water conveyance/water transmission project (piping) with minimal net water savings. Again, what is the wet water savings?
- Funding criteria for conservation projects: *Response:*
  - Columbia River Supply Development account must be spent on the development of new storage projects. RCW 90.90.010(2)(A). Expenditures may be for new storage and other listed activities and projects (conservation) which result in new water supplies.
- Defining "acquisition and transfers": *Response:*
  - Yes, acquisition and transfers mean any non-storage project that is funded through conservation efforts;
- Conditioning water rights on instream flows: Yes, state legislators should re-address the instream flow requirement for all months of the year in the Columbia River. The intent was to define water acquisitions and transfers as those related to water right acquired by direct purchase and/or gift separately from conservation project.

2.1.2.3 Voluntary Regional Agreement Component

Yes, aggressively pursue VRAs with the following possible suggestions: *Response:*

- Processing Voluntary Regional Agreements, after ground rules for the component are in place first.
- Coordinating VRA mitigation and processing new water rights. Yes, seek legislative authority to skip applications;
- Coordinating VRA and non-VRA processing. Group within the Columbia River one-mile corridor with WRIA permitting;
- Funding projects associated with VRA; no mitigation for applicants in VRA

2.1.2.4 Inventory and Demand Forecasting Component

- Defining "No Negative Impact" to instream flows of the Columbia and Snake Rivers: *Response:*
  - Yes, the location where net water savings from a tributary project would be measured would be at the mouth of the tributary;

- State legislators should re-address the instream flow requirement on the Columbia/Snake Rivers for all months of the year. This is a "foundation" question of the management plan. The provisions of the new law (RCW 90.90) are in conflict with existing law. (ie page 4 – 49 of the draft programmatic environmental impact statement for the Columbia River Water Management Program).

- Defining the Main Channel and One-Mile Zone: *Response:*
  - Use water resource inventory area for "effective mainstream water resource planning and management".
- Inclusion of exempt wells in water use inventory: *Response:*
  - No, do not include exempt wells in the information system.
- No action alternative: NOT AN OPTION.
- Other non-project alternatives considered but not carried forward to environmental review: *Response:*
  - Must consider all viable approaches for water storage description of early actions and alternatives;
  - Yes, include all the projects listed as well as Black Rock.

Chapter 6.0 policy discussion

- Aggressively pursue storage options. The Department of Ecology must be tasked to develop long-term storage options as we have no other solution to the needs of all; agriculture, economic sustainability and biological support of fish. The 2007 Legislature should readdress the 13 Policy issues in Section II of the DPEIS.

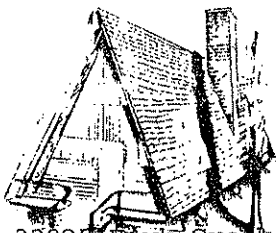
Thank you for your time and attention to the above concerns we hope could be addressed by the Department of Ecology. We would be more than willing to offer our assistance to any of the above-mentioned matters.

Sincerely,

BOARD OF BENTON COUNTY COMMISSIONERS

Max Benitz, Jr.
Chairman

cc: Commissioners
VJ Meadows, Sustainable Dev. Coordinator
Adam Fyall, Community Dev. Coordinator

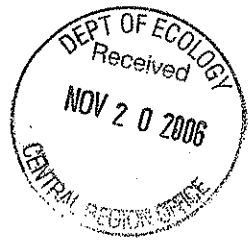


Architectural
Utilities
Civil

DWIGHT P. HANSEN
DRAFTSMAN

33088 Hawk Creek
Ranch Road N.
[illegible]
Davenport, Wash. 99122

509-725-5605



Dept. of Ecology
Attn: Derek Sandison
15 W. Yakima Ave.
Yakima, Wash. 98902
Nov. 17, 2006

Dear Mr. Sandison:

This is to continue the dialogue of the of the phone conversation we had on Nov. 2, 2006.

I am requesting written notification of any hearings, meetings or advertisementsyou or your agency are holding on the Hawk Creek project. I am further asking that these events be staged in the county wherethe project is being contemplated, rather than Spokane or Chelan counties.

The people in this county have an interest in knowing why your agency wants to inundate an incorporated area, what amount of hydro power you plan to dump into the Northwest Power Pool, how much it would cost this county for road relocatione and a myriad of other unanswered questions.

I have no "email", so I anticipate hearing from you by mail.

Thank you.

Sincerely,
Dwight P. Hansen

Grant County
PUBLIC UTILITY DISTRICT
Excellence in Service and Leadership

November 16, 2006

Derek I. Sandison, Regional Director
Central Regional Office
Washington State Department of Ecology
15 West Yakima Avenue, Suite 200
Yakima, WA 98902

Re: Grant PUD Comments on Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program

Dear Mr. Sandison:

On behalf of the Public Utility District No. 2 of Grant County (Grant PUD), I am writing to submit comments on the Draft EIS for the Columbia River Management Program. First off, we would like to express our appreciation to the Department of Ecology (Ecology) for their responsiveness related to implementation of the Columbia River Management Act including the timely completion of this EIS and formation of the Policy Advisory Group. I am pleased to serve as a member of this group and plan to offer my assistance for successful implementation of the principles of the Act. Grant PUD believes that its participation in this process is vital as we are directly affected by many of the measures of the Act. These comments are structured to provide assistance and suggest improvements to Ecology as you seek to finalize this EIS.

The following comments are divided into two primary areas. An initial section that focuses on our review of the analysis and accuracy of the EIS and a second section that focuses on the policy questions posed in Chapter 6. The following present areas relating directly to Grant PUD requiring modifications:

1. Page 3-25 provides a brief description of total dissolved gas related to spill at the seven mid-Columbia dams. It however, fails to mention that the spill creating elevated TDG levels is typically related directly to fish passage operations and occurs at not just the mid-Columbia dams but can occur at all mainstem Columbia River dams. In addition, Ecology has specific regulations providing standards allowing higher TDG levels during the fish passage season. This section should be revised to reflect these facts.

2. Page 3-55 provides a very cursory overview of the fish community of Crab Creek. This appears to ignore issues and controversy associated with the National Marine Fisheries Service designation of Crab Creek as critical habitat for steelhead listed under the ESA. In addition, the statement: "The intermittent sections of Crab Creek may have precluded the presence of anadromous fish species from accessing the upper reaches of the drainage" is very misleading. It is quite certain that the ephemeral nature of Crab Creek historically rendered as unsuitable for anadromous fish habitat. The more recent issue is the genetic source and verification, or lack thereof related to claims of listed steelhead use of Crab Creek. This section should properly identify these issues.

3. Table 3-23 on pages 3-81 and 3-82 is not correctly described; the surface area of Priest Rapids Reservoir is 7,725 acres at normal maximum elevation of 488 ft. The surface area of Wanapum Reservoir is 14,680 acres at normal maximum elevation of 571.5 ft. The reference for the table gives Grant County PUD 2006 but there is no matching reference in Chapter 7. It appears that these statistics were taken from Exhibit E-6 of Grant PUD's Priest Rapids Project license application filed with FERC in 2003. The acreage estimates provided in this document were from the "Area of Potential Effect" not Project surface area as implied in Table 3-23. These citation errors and comparison errors should be corrected in the Final EIS.

The following comments are specifically directed to the Policy Discussion of Chapter 6. Grant PUD owns and operates the Wanapum and Priest Rapids Dams located on the mainstem Columbia River. Many of the proposed measures and alternatives being evaluated or considered under the Columbia River Management Act would have a direct impact on Grant PUD, our customers or on Columbia River water management that would impact a number of other entities. These comments are intended to provide some guidance to Ecology on its efforts to implement the Program in a way that proactively manages these potential issues and impacts. However, it is very important to recognize that the economic and other interests of Grant PUD and its customers will be affected in some manner by any of the choices or alternatives that Ecology implements. Since this is a Programmatic EIS, Grant PUD is offering general guidance to Ecology related to these Policy Issues.

The alternatives offered by the DEIS on selection of new storage projects is of particular interest to Grant PUD. This is an area of the DEIS that is overly general and in need of major expansion and improvement. To simply state only a passive option and to re-state what is now required by RCW 90.90 (i.e. aggressively pursue storage options) ignores the policy choices available to Ecology. One of the most important considerations for development of new storage projects will be the process that Ecology uses to develop or consider multiple project purposes. The Final EIS should be revised to include a site evaluation, public involvement and overall development process that would be followed by Ecology in its efforts to implement RCW 90.90. Grant PUD also would like to comment that RCW 90.90 strongly implies that Ecology is already required to take a leadership role on development of new storage projects. This would mean that the alternatives for this section should be structured around the question of "how" to develop new storage projects not whether to be passive or active.

The issue of calculating new water savings from conservation is an issue with high potential for conflict. It might be very desirable to attempt to use some scientific methodology related to instream flow benefits but in practical terms for most conservation projects, this will be nearly impossible for a multitude of issues related to scientific uncertainty, measurement error, assumptions of biological effectiveness, prioritization of habitats and life stages and a number of other unknown complications. For these reasons, a simple rule should be applied.

The funding criteria alternatives suffer from the same problem as described above. Under RCW 90.90 the one-third/two-thirds approach is required by law. The Policy Advisory Group has initiated a process that could result in project funding criteria and Ecology should take these recommendations under advisement.

Ecology should waive the instream flow rule and define the process used for evaluating the situation where overriding considerations of public interest would benefit from increase flexibility. This would enable public input into this rule-making process and eliminate the potential for politics or other considerations related to a concentration of decision-making authority on a case-by-case basis by the Director of Ecology.

The Department of Ecology should follow the literal interpretation of the law and not include exempt wells in the information system. It will be a monumental task to get a complete and accurate information system related to water rights and certificates of the Columbia River. Taking an expansive view of the requirement will only complicate the inventory effort and result in concern about future regulation of exempt wells.

Grant PUD works closely with the Quincy-Columbia Basin Irrigation District and the East-Columbia Basin Irrigation District on many of the issues in this Draft Programmatic Environmental Impact Statement and in addition to our comments, we support their position and comments as well.

The Draft EIS has recurring general shortcoming in the Policy Discussion because it repeatedly describes alternatives contrary to the Columbia River Management Act. In short, these don't appear to be viable alternatives; instead Ecology should focus on a more thorough analysis of alternatives that are consistent with the intent of RCW 90.90. This would greatly improve the ability of the Final Programmatic EIS to provide guidance related to implementation of the Columbia River Management Act.

Grant PUD appreciates the opportunity to provide comments on the Draft EIS and has been impressed with Ecology's responsiveness and commitment to successfully implementing the Columbia River Management Act. We will continue to actively participate with the Policy Advisory Group and offer our advice and assistance as these efforts continue. Please call me at 509-750-8684 if you have questions about these comments.

Sincerely,

Joe Lukas

Joe Lukas
Assistant General Manager

Mary Jokela
35417 N. Dalton Road
Deer Park, WA 99006

November 15, 2006

Mr. Derek I. Sandison
Regional Director
Columbia River Draft EIS Comments
Washington State Department of Ecology
15 W. Yakima Ave., Ste. 200
Yakima, WA 98902

Re: Columbia River Draft EIS Comments

Dear Mr. Sandison:

Additional dams in the Columbia River Basin would inundate thousand of acres of prime wetlands and shrub-steppe habitat critical for several endangered species.

Furthermore, the mere one-third of impounded waters intended to augment river flows for migrating salmon would flush excessively warm water resulting from shallow impoundment—no assistance, rather, exacerbated and additional hazards for these cold-water fish.

Rather than resources for private agriculture, I urge focus on conversion from irrigation to dryland farming operation, from flood to drip irrigation. And let us have NO additional canals in Washington.

Rather than additional drawdowns for Lake Roosevelt which would expose heavy metal laden sediment to lake users and wind erosion as well as expose cultural relics previously inundated to looters, let's work together for sustainable economy that doesn't rely upon the Columbia River for all our water demands.

Additional water withdrawals from the Columbia River can not continue; this water is already over allocated.

Very truly yours,

Mary Jokela

Columbia-Snake River Irrigators Association
Policy Memorandum

DATE: November 8, 2006

TO: Mr. Gerry O'Keefe, Columbia River Water Management Coordinator
Mr. Derek Sandison, WADOE Central Regional Office Manager

FROM: Darryll Olsen. Ph.D., CSRIA Board Rep.

SUBJECT: Summary Comments on the Proposed Voluntary Regional Agreement (VRA) Under the Columbia River Water Management Programmatic EIS; and Water Supply and Demand Inventories Review.

Although not a direct commenting agency under the formal consultation process for the Columbia-Snake River Irrigators Association (CSRIA) and WADOE Voluntary Regional Agreement (VRA)--for the development of new water rights under the Columbia River Water Management Program—the CSRIA does provide WADOE with the following summary comments for consideration relative to the Programmatic EIS, and the related water conservation and demand (inventories) reviews.

The CSRIA anticipates comment discussion and review with WADOE at the November 8th briefing/comment meeting, as well as more technical discussions surrounding the implementation of the VRA, and its relationship to conservation and water management projects.

In Summary:

The CSRIA supports the proposal/proposed action for implementing the Columbia River Water Management Program and the early implementation actions, including the Ecology-CSRIA Voluntary Regional Agreement (VRA), a Lake Roosevelt drawdown (re-regulation), and a supplemental feed route for the Potholes Reservoir.

As co-developer of the proposed Voluntary Regional Agreement (VRA), the CSRIA firmly supports an immediate implementation of the CSRIA-Ecology VRA.

The VRA is an important implementation action that fulfills a dominant piece of the 2006 Columbia River Water Management legislation. The Columbia River legislation directs the state and water users to embrace collaboratively new water efficiency and management approaches, and to protect current water rights and secure new supplies for our communities.

3030 W. Clearwater, Suite 205-A, Kennewick, WA 99336
509-783-1623, FAX 509-735-3140

WADOE should move expediently forward with the consultation process for the VRA, and it should be signed by CSRIA and Ecology, as soon as statutory and procedural time lines allow. Under the VRA, some new water rights should be issued by July 2007. As we proceed with VRA implementation, the CSRIA has some specific recommendations for water right processing, requiring more elaborate discussion in the months ahead.

The Programmatic EIS does offer a satisfactory level of information to assess adequately the significant or non-significant impacts affecting the proposed actions. The technical information within the EIS is adequate to complete the consultation process and to proceed with the VRA. We also note that each new water right is subject to site-specific SEPA review, and this full and complete environmental review.

As we proceed, the CSRIA requests an ability to review jointly with WADOE the consultation comments received and to make collaborative modifications, if needed, to the final VRA.

Under the new Columbia River Water Management legislation, the CSRIA supports state authorization and funding for projects like the new Kennewick Irrigation District (KID) water right (and others), that can be implemented immediately via the VRA process, and convey significant economic-environmental benefits.

The proposed KID water right permit should be authorized; and its associated water transfer infrastructure, appears to be eligible for funding under Section 7(2) of the 2006 Columbia River Water Management legislation--encouraging projects for water exchanges in the Yakima River.

Further this permit, and its associated benefits, is consistent with the flow regime objectives stated under the Yakima River Basin formation plan process, to meet Yakima River target flows.

The CSRIA will work to identify other water rights that can be moved forward rapidly under the new VRA approach. We include within these candidate water rights opportunities to consolidate multiple rights, and to use existing water rights for water spreading under RCW 90.03.380, with the issuance of new superseding permits/certificates conditioned under the new VRA and Columbia River water right legislation.

The CSRIA supports the proposed action for implementing a Lake Roosevelt drawdown (re-regulation); but there needs to be better assurances that this is a realistic, near-term option, and the support and "mitigation conditions" for this option should be more transparent. The CSRIA perceives this option as providing drought permits for existing interruptible water rights, as well as new water rights for the Wells Pool management zone.

For legislators and the principal economic stakeholders, the CSRIA suggests that WADOE make clear the real status of this option relative to federal agency consent (BPA and USBR) and the willingness of key parties (Tribes, County governments, irrigation districts, utilities, and others) to support this option. Our discussions with federal agency officials suggest that they view the proposed operation as minor within their current operating regimes—not recognizable under physical operation conditions, but capable of scenario impacts within spreadsheet analyses. The perspectives, and demands, of others are far less clear.

Specifically, if the Tribes, or others, seek funds to "mitigate" for reservoir operations, then this funding request should be made transparent by the WADOE. It appears to CSRIA that this issue is a "give me money" issue (a buy-out for cooperation). Are current Columbia River Account funding levels adequate to "mitigate" the Tribal/other demands, or is it necessary to request additional funds from the legislature in 2007? The legislature should be informed of this buy-out situation.

The CSRIA does support the state's objectives for the Lake Roosevelt drawdown, and would further seek to explore use of such water for new, long-term water rights accessible from the Wells Pool area; as well as for the state's stated purpose to use a portion of the water for a new Quad-Cities water right, partial relief for the Odessa Sub-Area, and drought permits for existing mainstem interruptible water rights.

In the programmatic EIS, the CSRIA believes it is appropriate that the observations and recommendations of the National Academy of Sciences (NAS) report are not overstated, as the report contains serious gaps in adequately evaluating available empirical data/studies pertinent to impacts related to new Columbia River water right withdrawals.

The Programmatic EIS includes limited information regarding the efficacy of the NAS study; and prudently, the EIS authors do not attempt to overstate the study's findings and conclusions relative to the state's actions under a new Columbia River Water Management Program.

To the extent that the state is able to provide expeditiously new water supplies to the key economic stakeholders, the need is rendered moot to re-address the gross technical deficiencies, qualitative speculation, and deliberate misinterpretation surrounding the NAS study—and particularly its relevance to empirical data supporting real-world water management.

The above comment aside, it appears unlikely that the state will be able to sustain over time any water resources management program that turns a blind eye toward the fundamental empirical data, that does not lend support toward that program. As the direct and indirect economic costs of sustaining the program increase, so too will increase the need to empirically justify the program's existence.

Although identified by pending applications, water demand for developing agricultural irrigation is neither well "acknowledged" (appreciated) within the programmatic EIS, nor within the related water demand forecast review. Nevertheless, the CSRIA perceives that the coverage of the irrigated agriculture economic impacts within the programmatic EIS is more realistically served by the University of Washington (UW) review—as it better relates to incremental additions of irrigated acreage--than the obligatory references to the American Rivers-funded commentary.

The real-world conditions of Columbia River agriculture—and within our irrigation service area--do not conform to that suggested by American Rivers; nor does some of the demand forecast work "express well" current market conditions for irrigated agriculture along the mainstem Snake-Columbia River.

The American Rivers commentary—as well as some aspects of the WSU forecast review—exhibits several key problems/issues, summarized as follows:

- The actual amounts of added irrigated acres for new water rights, outside of the Columbia Basin Project area, are relatively small, over time. It is highly questionable whether this acreage would actually affect the global and regional production markets in the manner prescribed by American Rivers. Also, the near-term, conceivable allocations of new surface water for the Columbia Basin Project area will focus on relief of existing groundwater acreage (already in production), not new acreages.

- There will be some shifts in production agricultural from the tributary areas to the mainstem Columbia-Snake River corridors, with or without the allocation of new water rights. To suggest that this shift would be solely due to new water rights is wrong. The corridors account for prime production areas in the state, with significant production optimization potential, and not affected by other types of market, land, and production efficiency impacts.

- The American Rivers review did not consider export markets or multiplier (processing) effects of those markets. Over half of agricultural production in Washington State is exported, included high-value irrigation products.

- The review does not appear to account for increases in population (food demand) over the next 20 years, which will likely expand some demand for products grown in the Pacific Northwest and Columbia River Basin. Particularly high quality products that cannot be matched by foreign producers.

- It is assumed that new water would be put on marginal crops such as wheat, some types of hay, and other low-value crops. The water will be primarily used for high value crops—to assume otherwise is naïve.

- The review failed to acknowledge or address the concept of spreading fixed capital resources (tractors, pump stations, and other equipment) already purchased

over new land brought into production, and that only the variable costs of production on the new lands would increase (pesticides, power for pumps, etc.).

- The review failed to address the fact that new varieties of crops are being grown. This is particularly true in the orchard and vineyard business and the recent, expanding trend in the growth of bio-fuels. The newer variety crops—and crop needs--typically command a higher price in the market, thereby increasing direct net revenues to the agricultural sector.

- To some extent, the review fails to recognize continuing technological changes in irrigation practices that will take place over time and that would potentially off-set the effects of any new water withdrawals from the Columbia mainstem.

- The American Rivers review (and the WSU work) does not match well the developing land, water, and crop production conditions along the Horse Heaven Hills river corridor; the result of changing local, regional, and national market conditions. Actual market conditions suggest a demand for new agricultural products from this area, with stable-to-increasing price conditions.

Relative to the demand for new irrigated farmland in the Horse Heaven Hills and Eastern Oregon, and within the McNary-John Day Pools area[1], we observe further that:

- The current prices for most irrigated crops that are, and would be, grown in the Columbia River corridor suggest stable to moderately increasing price structures.

- New or previously grown crop types are becoming available for production with the siting of bio-fuels plants in the Boardman, Oregon, and Plymouth, Washington, areas (2007 and 2008 operation starts at announced plants).

- Recent land sales, rentals, and market inquiries for Columbia River irrigated lands suggest higher range values—approximately $3,500-4,200 per acre; land demand is an indicator of demand for new water rights.

- Requests for new water rights from existing/new land owners in the Columbia-Snake River region, as well as several recent/active water right transfers for water spreading and processing needs, provide further demand indicators for new water rights.

[1] Based on survey data prepared for the Benton County Commission, Washington; personal communications with members of the Columbia-Snake River Irrigators Association (CSRIA); real estate information received from Clark-Jennings and Associates, Pasco, WA; and information received from the Benton County Water Conservancy Board, Kennewick, Washington, and IRZ Consulting; all information received September-October 2006.

Water rights demand should be met on a real-time basis, thus reducing speculation on the need for additional, large-scale water storage or management projects.

The market is dictating, and will dictate in the future, new water demand needs; the WADOE should focus on meeting immediately real-time demand for new water rights, and then re-assess whether demand calls for major supply projects to be actually developed. Failure to meet existing demand needs breeds speculation on large-scale projects; and large-scale project focus distracts from meeting current demand needs. Is this really the water management model WADOE seeks to follow? Is this effective natural resources management?

If WADOE meets current water right demands, then it will bring more clearly into focus the actual need for long-term water supply projects. Future needs will be best interpreted by present-day actions.

Realistic demand needs suggest marginal increments in new water supply—to meet existing and new water rights—and they can be met through relatively small reservoir supply projects used in combination with new conservation and water management strategies. With these needs met, the "demand" for large scale projects will be reduced.

We suggest that the CSRIA Yakima River Basin Plan Formulation recommendation, to Ecology and the USBR, is indicative of this management approach.

As completed to date, the CSRIA generally finds the water supply inventory prepared by the WADOE to be useful and a good initial benchmark; as the WADOE acknowledges, the agency needs to use this inventory as a baseline for clarification and refined project selection.

The key focus on water conservation or management projects should be on consumption relative to in-stream flow impacts, where any conservation or water management project is evaluated relative to reducing tributary or mainstem withdrawals during a critical water-year July-August period (per the actual NAS definitions and conclusions); and including a shifting net withdrawals—via water management strategies--away from the July-August period. The environmental objective of water conservation/management under the new Columbia River water management legislation is critical period flow stability or improvement—with reduced water withdrawals tied to specific measures and actions. This principal objective should not be belabored, redefined, or misconstrued.

The CSRIA will be providing WADOE and legislators with additional information on conservation and water management projects relative to continued review of the Conservation District prepared data and other projects recently identified by the irrigation districts and private sector. This will be an on-going process.

Finally, the CSRIA does recognize the considerable progress that is being made by WADOE to implement the new Columbia River Water Management legislation. We strongly encourage WADOE to retain its current pace for completing action items, with the realistic goal of issuing some new water rights by June 2007. The state needs to deliver tangible, near-term success to water users, or else the fundamental state approach and objectives will be questioned.

KID
KENNEWICK IRRIGATION DISTRICT

November 8, 2006

COLUMBIA RIVER WATER MANAGEMENT BRIEFING/CONSULTATION

Mr. Gerry O'Keefe, Columbia River Water Management Coordinator
Mr. Derek Sandison, WADOE Central Regional Office Manager
Mr. Tom Tebb, WADOE, CRO, Water Resources Program Manager
Mr. Dan Haller, Technical Lead, Columbia River Water Management Program

Subjects: KID Comments on the Proposed Voluntary Regional Agreement, Programmatic EIS, and Funding Request for New Water Right Engineering; and Project Development per the Columbia River Account

Gentlemen:

As part of Ecology's consultation process, the KID offers formal comments on the Columbia-Snake River Irrigators Association (CSRIA) and Ecology Voluntary Regional Agreement (VRA) for the development of new water rights under the Columbia River Water Management Program.

Our comments reflect the KID's needs and objectives to provide irrigation service to over 20,000 agricultural, residential, and commercial customers, and to meet the apparent demand needs of a growing Quad-Cities area. Irrigation water is an important asset supporting our economy and lifestyle, and it is our intent to sustain and enhance this asset through careful water resources management, and through the acquisition of a new Columbia River water right.

CSRIA-Ecology Voluntary Regional Agreement (VRA) and Related Actions:

The KID firmly supports the implementation of the CSRIA-Ecology VRA; this Agreement is an important implementation "tool" that brings into being the 2006 Columbia River Water management legislation. The Columbia River legislation directs the state and water users to embrace collaboratively new water efficiency and management approaches, and to protect current water users and secure new supplies for our communities.

The KID also offers the following recommendations:

- Ecology should move expediently forward with the consultation process for the VRA. The VRA should be signed by CSRIA and Ecology, as soon as statutory and procedural time lines allow.

12 West Kennewick Avenue, Kennewick, WA 99336 *Phone: (509) 586-5111*

- The pending KID water right should be one of the initial water rights granted under the new VRA. The proposed water right is highly consistent with the VRA approach and the application of a new water management approach taking advantage of conservation and efficiency improvements, water transfers, and improvements to in-stream flows where measurable impacts can be obtained.

- Via the guidance offered by the draft VRA, Ecology and KID staff should pursue regular consultations throughout the next few months to evaluate technical, legal, and policy components surrounding the issuance of a new Columbia River water right for the KID.

- With the completion of the VRA consultation period, Ecology staff and KID representatives should review how the VRA may be used to accommodate some of the key features of the new KID water right, including:

    - Respect for the existing KID Conditional Final Order (CFO) under the current Yakima River Basin water adjudication; and providing pragmatic and workable efficiency standards for the diverse needs of the District.

    - An ability of KID to improve water efficiency objectives and provide "no negative impacts" to main stem Columbia River flows through internal recalibration of the District's existing water right—and used in conjunction with a new Columbia River water right.

    - An optimization of the water resources transfer under the new water right, exchanging Yakima River flows for Columbia River water.

    - Mitigation options for the new KID water right.

- With the completion of the VRA consultation period, Ecology and KID staff should jointly prepare a report of examination and record of decision for the issuance of the new KID water right permit.

The Ecology Programmatic EIS:

The KID generally supports the proposed action/proposal contained in the Programmatic EIS for implementing the new Columbia River Water Management legislation (and the preferred alternatives/proposed actions therein).

More specifically, we note the following:

- The KID supports the proposal/proposed action for implementing the Columbia River Water Management Program and the early implementation actions, including a Lake Roosevelt drawdown (re-regulation), a supplemental feed route for the Potholes Reservoir, and the Ecology-CSRIA Voluntary Regional Agreement (VRA).

- The KID supports most directly the VRA and its application for the issuance of a new Columbia River water right for the KID.

- The EIS offers a satisfactory level of information to assess adequately the significant or non-significant impacts affecting the proposed actions. The technical information within the EIS is adequate to proceed with the VRA.

- The coverage of the irrigated agriculture impacts within the EIS is more realistically served by the UW review—as it relates to incremental additions of irrigated acreage--than the American Rivers commentary. The UW work also was conducted with a technical review committee, while the American Rivers' work is simply advocacy politics. It would seem to be very self-serving for a group from Texas A&M to downplay new irrigated agriculture in Washington State, while their own state is a market competitor with Washington agricultural products. The real-world conditions in Columbia River agriculture—and within our service area--do not conform to that suggested by American Rivers.

- We are pleased to see that the observations and recommendations of the NAS report are not overstated, as the report contains serious gaps in adequately evaluating available empirical data/studies pertinent to impacts related to new Columbia River water right withdrawals.

Funding Request Under the New Columbia River Basin Water Supply Development Account:

As previously conveyed to you, the KID would like to apply for Ecology/state co-funding, for its proposed Columbia River water right review, under the Columbia River Basin Water Supply Development Account. We believe that this work is eligible for co-funding under Section 7(2) of the 2006 Columbia River Water Management legislation, encouraging projects for water exchanges in the Yakima River.

The new (KID) Columbia River water right would allow for:

- Water transfers (change in withdrawal points, water exchanges, and some additional water withdrawals) from the Yakima River to the Columbia River.

- A significant amount of the existing KID service territory, currently served by Yakima River water, to be serviced by Columbia River water, and additional lands in the Red Mt.-W. Richland and South Ridge areas to be serviced with Yakima River water.

- New pump stations placed at Kiona (Yakima River) and at Edison St. (Columbia River); the overall approach is more, smaller withdrawals along the river corridors to service KID.

- Significantly increase flow within the Prosser to mouth of Yakima River Reach (ranging from about 400 to 130 cfs), with a very small decrease to mainstem Columbia River flows (57 cfs as currently envisioned).

Specifically, co-funding is initially requested for:

- Appraisal and preconstruction engineering/economics and water right evaluation work for the Edison St. portion (direct water transfer between Yakima and Columbia Rivers) of the proposed project (Columbia River pump station and mainline).

With completion of the project review and the issuance of a new Columbia River water right, co-funding is requested for:

- The construction engineering and capital construction for the Edison St. portion of the proposed project (Columbia River pump station and mainline).

Per our recent discussions, we know that you are in the process of some internal clarification of what types of projects can be funded, and we are aware that the construction engineering and capital funding needs for the KID water right project would not be eligible for state funding until issuance of a water right. However, the project appraisal work now being conducted by the KID appears to be eligible for co-funding.

Please let us know how you wish to proceed with this funding request, and what types of information you require, in addition to the technical reports and information previously provided to you.

The KID management and staff are very pleased with our current interaction and consultations with the Ecology staff, and we are looking forward to soon acquiring a new Columbia River water right to better serve our customers and community.

With my appreciation for your efforts and consideration,

Victor V. Johnson
District Manager

VVJ/mh

cc: WA State Sens. Erik Poulsen, Mike Hewitt, Jerome Delvin, and Jim Honeyford
WA State Reps. Kelli Linville, Bruce Chandler, and Dan Newhouse
Mr. Jay Manning, Director, WADOE
Mr. Tom Mackay and Dr. Darryll Olsen, CSRIA

Citizens for a Clean Columbia Wenatchee

434 Orondo Ave. Wenatchee, WA 98801
509.662.7632 www.cleancolumbia.org

November 5, 2006

Washington Department of Ecology
Columbia River Water Management Program

Tim Hill
Joyce Redfield-Wilder

Dear People:

In response to the proposals outlined in the Draft EIS for management proposals for Columbia River water, we have the following comments:

1. This aggressive process is taking place way too rapidly. We have the consequences of the dams, of Hanford, of fish ladders and canneries, of Teck Cominco Mining Smelter, et.al., to show that engineered changes that seem initially like a great idea can occur rapidly on the Columbia, and leave us with huge problems. This process needs to slow way down. Who actually will benefit from this? This needs to be spelled out and the limits of this management plan defined. Where does taking water for reservoirs end?

2. This process is not taking a whole Columbia River planning and awareness approach. The entire and huge Columbia River ecosystem needs to be the basis for very long range planning. With Canada renegotiating the Columbia River Treaty beginning in 2014, we have much reason to have Canadians, tribal and not, at the table. What if Canada decides to store and divert for their use Columbia River water? What if every stream and creek decides to have a storage facility including the tributaries in Montana, Idaho, and Oregon? A much larger, longer and more careful collaborative approach needs to take place as a foundation to prevent future water wars, and to establish a precedent for collaborative, and whole river stewardship.

3. There are many factors besides fish and Washington State water rights that need to be considered. This process oversimplifies our role as stewards of the river now and in the future. For instance how warm will the waters be that are put back in the river from reservoirs or from conservation efforts? These are complex factors that can not be sufficiently safeguarded by a thirty-day citizen comment period for each proposed reservoir.

4. The conservation component and water banking suggestions seem at first review a move in the right direction. We support a conservation and water banking option ONLY until more time can be taken for careful measure of whole river ecosystem environmental impacts, and the inclusion of representatives from the entire river. We are opposed to taking more water from Lake Roosevelt next Spring, or any other early actions.

5. We request the Department of Ecology focus more on pollution prevention and cleanup of the Columbia, the liquid natural gas ports threatening the Columbia River Estuary, the rapid development taking place without regard for the shorelines all along the river and the resulting loss of habitat and ongoing degradation of water quality. It's time to stop taking from the Columbia River and start taking care of the river. The Columbia River is our life blood, and our sacred commons.

Sincerely,

Susan Evans

Citizens for a Clean Columbia - Wenatchee
Susan Evans

CLEAN, FLOWING WATERS FOR WASHINGTON

The Center for
Environmental Law & Policy

November 22, 2006

Derek L. Sandison, Regional Director
Washington Department of Ecology
Central Regional Office
15 W. Yakima Ave., Suite 200
Yakima, WA 98902-3452

Re: Comments on Draft Programmatic EIS – Columbia River Water Management Program[1]

Dear Mr. Sandison:

The Center for Environmental Law & Policy ("CELP") is a non-profit membership organization working to defend and develop ecologically and socially responsible water laws and policies. CELP believes that informed, responsible water management is the only way to ensure a legacy of clean, flowing waters for Washington. CELP has been involved with the Columbia River Management Plan since its inception and our research into and involvement with Columbia River issues dates back even further. CELP is the only environmental organization that has appealed Columbia River water right permitting decisions, and CELP is currently a party to a continuing settlement agreement governing future allocations of river water to the Quad Cities of Kennewick, Richland, West Richland, and Pasco. (PCHB 02-216)

The State of Washington is at a crossroad in terms of water management. Faced with climate change and population increases it is crucial that the state engage in deliberate, informed, and thoughtful water management planning now, in order to prevent water conflicts and disastrous impacts later. Policy decisions based on incomplete or erroneous information will place Washington's waters in further jeopardy and shift the burden to future generations. CELP has previously expressed concerns about the quality and reliability of the 2006 Water Supply Inventory and Long-Term Water Supply and Demand Report (Inventory) in a letter dated 11/1/2006 (incorporated here by reference), and we have similar concerns about the accuracy and adequacy of the draft EIS.

I. GENERAL COMMENTS:

- ✓ Critical terms such as "conservation", "no negative impact", and "Voluntary Regional Agreement" must first be defined by rule-making, and then applied consistently before any analysis in the draft EIS or Inventory report can be meaningful.

[1] The Center for Water Advocacy, www.wateradvocacy.org, P.O. Box 583, Clifton, Colorado, 81520 joins in the submission of these comments. The Center for Water Advocacy (CWA) is a non-profit public interest entity dedicated to protecting water resources in the Northwest. CWA conducts legal and scientific research, analysis, policy and litigation in its efforts to protect and restore water quantity, water quality and water rights for the health of the watershed ecosystem, preservation of cultural identity, and the benefit of the public.

- ✓ The draft EIS fails to adequately address the statute's dual purpose of benefiting both instream and out of stream uses.
- ✓ The consideration of the CSRIA Voluntary Regional Agreement is premature and inappropriate within this draft EIS.
- ✓ Adoption of the Final EIS for Watershed Planning under Chapter 90.82 RCW, 2003 does not compensate for the deficiencies in this draft EIS.
- ✓ The historical and background information listed in Chapter 1.3 contains numerous inaccuracies and omissions as to the background of litigation surrounding Ecology's issuance of water rights from 2000 to 2003, and should be corrected.[2]

II. Comments specific to Chapter 6.0 – Policy Discussion

Section 6.1: Description and analysis of policy alternatives for implementing the management program.
This section admits that the impacts of policy alternatives on each element of the environment are not being evaluated here. This statement sums up a major flaw of the entire EIS: insufficient identification and analysis of various potential alternatives and the environmental impacts of those alternatives. Conspicuously absent, for example, are discussions of the impacts to endangered species, and the ESA ramifications of various policy alternatives. ESA implications are especially crucial factors in analyzing how to apply the arbitrary "no negative impact in July and August" standard, and the environmental impacts of diverting water from instream flows in order to fill off-channel storage reservoirs.

Section 6.2 – Selecting storage projects
The section (and, indeed, the entire EIS) improperly presupposes that storage creates "new water" that will serve the dual purposes of the statute: that is, for instream and out of stream benefits. This is a major flaw, in that the EIS fails to examine whether there is any conceivable storage management regime that could result in benefits to instream aquatic values. The EIS offers two alternatives under this section: Review projects only as proposed by applicants, or Aggressively pursue storage options. Given that the EIS does not analyze how or whether "new" water supplies can be obtained through storage, the only alternative in the public interest at this time is the first: Review projects only as proposed by applicants. Ecology should not pursue projects itself without first developing data and evidence that storage can indeed equate to a "new water supply". The initial burden of providing this evidence should be on the proponent, not the public and taxpayers.

Section 6.2.1 Calculating net water savings
There is a serious legal flaw here in stating that Ecology will consider any conservation project implemented before July 1, 2006 (the date the CRWMP law became effective). If water was conserved before 7/1/2006, it should be viewed as already "in stream" and as part of the baseline from which to prospectively calculate benefits. The preferable alternative: Develop a rule for calculating net water savings.

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[2] Among other things, this section falsely implies that the $10 an acre foot scheme" resulting from a settlement between the CSRIA and Ecology resulted in the issuance of water right permits. However, five such water right decisions were appealed by Tribes, and in 2005 the Washington State Court of Appeals ultimately ruled against Ecology and the water right applicants. The applications were remanded to Ecology. The permits have never been issued. This section also fails to list the PCHB decision in *CELP vs. Ecology and the Quad Cities,* PCHB 02-216, which resulted in the cities receiving a very large water right (178 cfs & 96,619 acre feet/year) in return for their agreement to, among other things, exercise water conservation measures and provide mitigation for 168 cfs of the allotted amount.

Section 6.2.2 – Funding criteria for conservation projects. Here, the second listed alternative is the best one. Funding projects to benefit only instream flows and water quality is the only choice that meets the intent of the statute, especially given the amount of water to be diverted out of the mainstem into the Odessa subarea, and the arbitrary and unbalanced requirement to allocate 2/3 of "new" water from new storage facilities to out of stream uses. Rule-making is advised to develop criteria for funding conservation projects.

6.2.3 Defining Acquisition and Transfer
Acquisition can only be interpreted to mean direct, permanent purchase of water rights. Anything less, such as leases, temporary contracts for drawing down reservoirs, and conservation savings are indefinite in duration and scope. Issuing permanent out-of-stream consumptive water rights based upon time-limited "mitigation" does not meet the test of adequate mitigation. Transfers of ownership can already occur under existing statutes without Ecology intervention or involvement as part of the CRWMP; these provisions should not be modified as a result of the CRWMP.

Section 6.2.4 Conditioning Water Rights on Instream Flows
All of the analyses and alternatives under this section are flawed, and point out the greater deficiencies throughout the EIS. The 1980 instream flow rules must be upheld and not waived; nor should interruptibility or individual permit mitigation conditioned upon the FCRPS Bi-Op Target Flows (as in the 2003 Quad Cities permit S4-30976, giving them access to 178 cfs and 96,619 acre feet/year) be waived or changed as a result of the CRWMP. There are absolutely no facts or circumstances shown in the EIS or the Water Supply and Demand Inventory Report to justify a consideration of OCPI --- particularly given the dearth of evidence that there is likely to be any appreciable increased demand for municipal water supplies in the foreseeable future.

Section 6.2.5 – Initiating Voluntary Regional Agreements
Ecology does not have a legislative mandate to solicit VRA's. The first policy alternative is the only one that is reasonable. Why would Ecology even consider "aggressively pursuing" VRA's? This presupposes that VRA's are more beneficial to the public interest than normal processing of water right applications under existing laws. It also improperly presupposes that VRA's will result in "new water supplies". There is no showing anywhere in the EIS or elsewhere that this might be true.

Section 6.2.6 Processing VRA's
The section inaccurately implies that Policy 1021 re: processing water right applications for "nonconsumptive" projects is legally supportable and an accurate interpretation of Hillis and WAC 173-152-020. Another questionable and unsubstantiated statement is that "New water can be obtained from a new water right or change of an existing right." Nowhere does the EIS discuss or analyze how this feat can be accomplished. CELP can see no reason to amend the Hillis Rule for purposes of processing water right applications pursuant to VRA's. The first alternative listed (Process applications according to the Hillis Rule) should be the only one seriously pursued.

Section 6.2.7 – Defining "No Negative Impact"
The entire discussion of defining "no negative impact" should await rule-making. This is an extremely controversial and complex concept, and will likely be the subject of litigation. Alternative 4C-4, "Same Pool, but only downstream of the point of net water savings" is the only alternative that could be seriously considered as adequate.

Section 6.2.8 Defining the Main Channel and One-Mile Zone
The way Ecology has always defined this (as outlined in the second alternative) is the most appropriate way to approach this. Question: If the river course shifts over time, or shrinks or expands in width, does the one-mile boundary also change? CELP recommends that Ecology immediately assemble aerial photos and other data showing the parameters of the river on 7/1/2006 (the effective date of the statute) and use this information as the perpetual mapping baseline. If there were backwater areas on 7/1/2006, these should be considered as part of the mainstem "pools".

Section 6.2.9 Coordinating VRA Mitigation and Processing New Water Rights
CELP lacks sufficient comprehension of the discussion or alternatives suggested to make a recommendation at this time. Further, CELP has no knowledge of the 1993 Quad Cities permit as mentioned on p. 6-18. Could this somehow be intending to refer to the 2003 Quad Cities permit S4-30976, based upon a 1991 water right application?

Section 6.2.10 and 6.2.11 – Coordinating VRA & Non-VRA processing, and Funding Projects Associated with a VRA
See below for additional discussion of why CELP believes that this EIS has inappropriately handled issues related to VRA's. As for funding issues and VRA's: Ecology should spend NO conservation or storage money to assist in providing mitigation water for VRA's that intend to cover out of stream water uses. The proponents of VRA's should provide their own mitigation water. Ecology's expenditures should be solely for providing water to improve instream flows for fish – the otherwise forgotten-in-this-EIS dual beneficiary of the supposedly balanced CRWMP.

Section 6.2.12 Inclusion of Exempt Wells in Water Use Inventory
YES! Metering and reporting of water use from exempt wells MUST be included in the information system in order to meet the intent of RCW 90.90.050(1).

III. Comments Targeted Toward Specific Issues

1. The Consideration of the CSRIA's Application for a VRA is Improperly Considered within the Draft EIS because: (a) there is No Means for Measuring a VRA's Instream Flow Impacts, making the data Unacceptably Incomplete under SEPA; (b) Proceeding with the Evaluation of a Specific Plan for a VRA under this General EIS is in Violation of the General Requirements of an EIS; (c) Ecology's Answer to CELP's Original Scoping Comments Regarding this Exact concern is Inappropriate because it is an Incomplete Reading of the Applicable WAC.

(a) There is no set means for measuring a VRA's impacts to instream flows making the "no negative impact" pre-requisite for approval of a specific plan impossible to determine.

In order for a VRA to be approved, it must have "no negative impact" on the Columbia River mainstem instream flows during July and August as a result of the new appropriations issued under the agreement. (April though August for the Snake River; pg. 2-13). A VRA also "may not impair or diminish a valid water right or a habitat conservation plan approved for purposes of compliance with the federal Endangered Species Act (ESA). (pg. 2-13). The EIS fails to demonstrate how the "no negative impact" requirement shall be met by VRA's in general because it does not propose a meaningful means for measuring water conserved through mitigation measures. The EIS states: "There is no existing policy on how or where to measure whether a withdrawal of water

pursuant to a VRA would result in a net reduction in stream flow." (pg. 2-18). How then can a specific proposal by the Columbia and Snake River Irrigators Association (CSRIA) for a VRA be evaluated when there is no existing policy in place for measuring the primary prerequisite for its approval-that it (1) have "no negative impact" on instream flows and (2) not impair or diminish other water rights or ESA habitat plans? The answer is that it cannot. A specific plan cannot be properly evaluated if no means are in place to measure whether the primary prerequisites for approval can actually being met.

Under SEPA WAC 197-11-080, this gap in data is unacceptably incomplete for consideration of a specific proposal such as the CSRIA VRA. Under this section, Ecology may only proceed without such vital information if the costs of obtaining it are exorbitant (WAC 197-11-080(3(a)) or the means of gathering it are speculative or unknown (b). This is not the case here. Ecology has not proven that the costs would be exorbitant to find out how the impacts of VRA's will be measured to know if they have an impact on stream flows. Ecology has also not proven that the means of obtaining such information are speculative or unknown. There is actually evidence to the contrary on this point. Ecology does know how to obtain such information, it actually suggests four alternative means for acquiring it. (See pg. 6-14 to 6-16). Each of these alternatives has its flaws, but if Ecology has the capability to obtain the information needed to determine how and where to measure instream flow for VRA's, they should certainly do so before considering a specific request like that from the CSRIA. WAC 197-11-080(3)(b) actually mandates that they do so. This WAC section goes on to state that if Ecology does choose to proceed without the vital information, the agency "shall weigh the need for the action with the severity of possible adverse impacts which would occur if the agency were to decide to proceed in the face of uncertainty." Yet in this case if Ecology proceeds in the face of uncertainty - without an adequate or set means of measuring the impact to instream flows from the CSRIA VRA - it will most likely do so in violation of the statutory mandate of "no negative impact." The agency cannot know whether the entire concept of VRA's actually meets its requirements without first having a functioning measuring mechanism in place to meet the conditions for approval.

(b) Proceeding without the necessary information on how to measure the impact on instream flows from VRA's in general yet agreeing to evaluate a specific plan for a VRA is in violation of WAC 197-11-402(10).

Proceeding at this point in the planning process without having a set policy for how to measure whether VRA's would result in a net reduction of instream flow would violate WAC 197-11-402(10). This section of the regulation states the general requirements of an EIS and requires that "EIS's shall serve as the means of assessing the environmental impact of proposed agency action, rather than justifying decisions already made." Ecology has no means of measuring the effect of VRA's on instream flow, therefore it cannot assess the environmental impact on either instream flows, habitat for ESA species, or other vested water rights. By proceeding with the specific plan outlined in the early action CSRIA VRA without a means to know whether the conditions of (1) no negative impact and (2) no impairment to ESA habitat or vested water rights are met for the use of VRA's in general, suggests that Ecology has already decided to implement VRA's in any manner it chooses at the time, and that the inadequate "lip service" treatment given in the EIS will simply be used as an excuse to justify any future deal or decision that Ecology chooses to make on a VRA – regardless of how broad or how potentially damaging the environmental or policy ramifications may be. Critical data and critical definitions of terms are missing to meaningfully assess the environmental impact of VRA's. Proceeding without this information is a violation of both WAC 197-11-080 and WAC 197-11-402.

(c) Ecology's response to CELP's scoping comments on the VRA issue is an incomplete reading of WAC 197-11-055 because when read in its entirety the section supports CELP's argument that the consideration of the CSRIA VRA is inappropriate within this EIS.

Ecology's answer to CELP's earlier comment regarding the inappropriateness of considering the CSRIA VRA early action within this EIS is an incomplete reading of the WAC 197-11-055. Ecology justified its consideration of the specific plan CSRIA VRA by citing to WAC 197-11-055(1): "**Integrating SEPA and agency activities.** The SEPA process shall be integrated with agency activities at the earliest possible time to ensure that planning and decisions reflect environmental values, to avoid delays later in the process, and to seek to resolve potential problems." *(See Appendix C; SEPA Comments)*. Ecology responded to CELP's concerns that the specific VRA for the Irrigators was premature by stating that this is an allowable integration of SEPA and agency activities. However, Ecology is failing to read the quoted regulatory section in its entirety. Section (2) of the regulation in question states:

> **Timing of review of proposals.** The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decision-making process, **when the principal features of a proposal and its environmental impacts can be reasonably identified.** (Emphasis added).
>
> (a) A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal *and* the environmental effects can be meaningfully evaluated.(Emphasis in the original).

CELP's scoping comment about the inappropriateness of considering the early action VRA for the irrigators was a concern about timing in the review of proposals, so the entire regulatory section should be read to address CELP's concerns. These sections require that the "environmental impacts be reasonably identified" and "meaningfully evaluated" in order for a determination to be made. With the acknowledged gaps in data by Ecology as to the means for measuring the impacts of VRA's on instream flows, these regulatory sections are not satisfied. Ecology cannot cite to section (1) of the WAC and neglect section (2) when it clearly relates to CELP's concern. Proceeding with a specific proposal for the CSRIA VRA when the general pre-requisites for a VRA's approval cannot be measured in order to know its impact violates the regulatory section as a whole. **Early incorporation does not mean that the impacts have been reasonably identified or meaningfully evaluated.**

2. THE CONSIDERATION WITHIN THE EIS OF THE CSRIA EARLY ACTION VRA IS AN IMPROPER APPLICATION OF THE SEPA PHASING REQUIREMENT UNDER WAC 197-11-060(5).

The EIS seems to present itself as a phased review. (See pg. S.4 "Project Phasing and Schedule of Future Environmental Review") This section states that "[p]rojects will be evaluated as they are developed and ready for environmental review..." (pg. S-10). *(See definition of "phased review" under SEPA WAC 197-11-060(5))*. This WAC section also mandates under subpart (e) that "[w]hen a lead agency knows it is using phased review, it shall so state in its environmental document." Section S.4 of the EIS seems to suggest it is attempting to be characterized as a phased review. Assuming it is a phased review, this particular EIS does not satisfy the necessary components of the selected review process, because it is considering the specific project proposals (early actions) along side the broad and preliminary components of the plan. This is not the correct order of consideration for a phased review. A phased review is meant to "assist agencies and the public to focus on issues that are ready for decision and exclude from consideration issues already decided or

not yet ready. Broader environmental documents may be followed by narrow documents..." WAC 197-11-060(5)(b). Phased review is appropriate when: "the sequence is from a nonproject document to document of narrower scope such as site specific analysis (see, for example WAC 197-11-443)" WAC 197-11-060(5)(c)(i). WAC 197-11-443(2)'s example of this states: "

> (2) A nonproject proposal may be approved based on an EIS assessing its broad impacts. **When a project is then** proposed that is consistent with the approved nonproject action, the EIS on such a project shall focus on the impacts and alternatives including mitigation measures specific to the subsequent project and not analyzed in the nonproject EIS." (emphasis added).

By proposing the specific early actions in this EIS, Ecology is not following the order for consideration of a phased review EIS. The purpose of the phased review is to consider the broad aspects of the projects first and **then** the specific projects within the findings of the broad, preliminary findings. In the case of the Columbia River EIS, Ecology is considering both the broad and specific proposals in the EIS simultaneously in violation of SEPA's phased review regulations.

3. THE INSTREAM FLOW REQUIREMENT OF THE DUAL GOALS OF PROVIDING IN-STREAM AND OUT-OF-STREAM USES FOR WATER IN THE COLUMBIA BASIN IS NOT MET BY THIS EIS.

The purpose of the Columbia River Water Management Act is to direct the Washington State Department of Ecology to "aggressively pursue the development of water supplies to benefit **both** instream and out-of-stream uses". (emphasis added). Despite the dual purpose of the plan, the Columbia River EIS does not provide a meaningful effort in meeting the instream flow component. While the means used to achieve benefits to out-of-stream uses such as irrigation are more clear, these means fail to simultaneously meet the goal of benefiting in-stream uses. The goal of providing for instream flow is not met for the following reasons:

1. Storage projects harm instream flows and this EIS only considers storage projects versus no storage projects. The means of satisfying the goal of supplying water to out-of-stream uses is being satisfied by the storage projects while at the same time failing to meet the goal of providing water for instream uses. It is not merely failing to meet the goal for instream use, it is actively working against it by the very nature of the means suggested: dams and reservoirs.
2. There is no showing that water collected in storage units can be of sufficient quality or managed in a manner to facilitate healthy fish populations; yet the EIS proceeds as if there is no doubt or disagreement that stored water later released in any quality or quantity will meet the statute's mandate of improving instream conditions for aquatic life.
3. Water allocated by Ecology from the Water Trust Fund is not earmarked toward instream flows but instead toward irrigation and other out of stream beneficial uses. This allocation scheme fails to address the goal for providing water for improved instream flow.
4. It only serves an out-of-stream goal to exempt from the Trust Program any water savings achieved via conservation in the Columbia Basin Project, so long as that water is used in the Odessa Subarea as a replacement source for ground water. Furthermore, alternatives for achieving instream flow benefits that are at least comparable to the amount of mainstem water loss diverted to the Odessa subarea must be examined and evaluated. The omission of such a discussion is yet another glaring example highlighting the insufficiency of the EIS and the need for substantial supplementation.

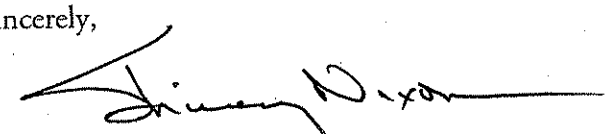
IV. Conclusion & Recommendations

The SEPA process is an important venue for examining the potential alternatives for implementing the Columbia River legislation. We therefore urge Ecology to delay further SEPA action including the development of a final EIS until definitions of crucial terms are agreed-upon, weak or missing portions of the EIS can be filled-out, inaccuracies corrected, and sufficient data can be gathered to form a proper foundation for implementing the Columbia River law.

- ✓ As we addressed in our SEPA scoping comments, CELP urges Ecology to immediately engage in rule-making designed to establish operative definitions for terms such as "conservation", "water use efficiency" and to set definitions and minimum guidelines for consideration of Voluntary Regional Agreements.
- ✓ We urge Ecology to spend no more taxpayer money on developing storage projects, negotiating or implementing voluntary regional agreements, or issuing water rights for new out of stream uses until such time as Ecology can fill in the many glaring data gaps and deficiencies in the Water Supply Inventory report and this draft EIS, and can compile the basic information necessary for effective water resource planning and management.

Thank you for considering these comments.

Sincerely,



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cc: Governor Christine Gregoire
Senator Eric Poulsen
Representative Kelli Linville
Representative Maralyn Chase
Rebecca Penn, Seattle University School of Law

STATE OF WASHINGTON

DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION

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October 16, 2006

Mr. Derek I. Sandison
Central Regional Office
Department of Ecology
15 West Yakima Avenue, Suite 200
Yakima, Washington 98902

Log No.: 101606-01-COE-S
Re: Columbia River Water Management Plan

Dear Mr. Sandison;

Thank you for contacting our department. We have reviewed the Draft Programmatic Environmental Impact Statement (DEIS) for the Columbia River Water Management Plan.

We understand from the document that federal permits and/or federal funding may be required for elements of this plan. As noted on page 3-80 of the DEIS compliance with Section 106 of the National Historic Preservation Act will be required, and we anticipate on-going consultation with the responsible agencies pursuant to 36CFR800.

In terms of this DEIS we concur with your identification of cultural resources in Section 3.10 as a significant resource topic and their protection under both federal and state laws.

The analysis of impacts in Sections 4.1.1.9 and 5.1.2.9 and specifically the statements on page 5-22 does not accurately reflect either the short-term or long-term impacts at a project level. From our experience with cultural resources impacts at existing reservoirs in Washington State the short term impacts at the project level are significant and require the development of a Programmatic Memorandum of Agreement for the life of the project to assure archaeological, historic, and traditional cultural properties are appropriately identified, evaluated, and property specific treatment plans are developed.

Existing reservoirs in Washington have ongoing programs for the life of the project to assure that operational changes, on-going erosion, and new project elements address cultural resource issues as they surface. Our experience is that long term impacts are significant, on-going, and require a robust Cultural Resources Management Plan (CRMP).

We look forward to further consultation and working with your agency and the other consulting parties as you identify specific projects.

We would appreciate receiving any correspondence or comments from concerned tribes or other parties that you receive as you consult under the requirements of 36CFR800.4(a)(4).

These comments are based on the information available at the time of this review and on the behalf of the State Historic Preservation Officer in conformance with Executive Order 0505 and Section 106 of the National Historic Preservation Act and its implementing regulations 36CFR800. Should additional information become available, our assessment may be revised. Thank you for the opportunity to comment and a copy of these comments should be included in subsequent environmental documents.

Sincerely,

Robert G. Whitlam, Ph.D.
State Archaeologist
(360) 586-3080
email: rob.whitlam@dahp.wa.gov

cc: C. Pleasants
K. Valdez

Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

POWER SERVICES

Official File

November 16, 2006

In reply refer to: PG/5

Mr. Derek Sandison, Central Regional Director
Washington State Department of Ecology
Central Regional Office
15 W. Yakima Avenue, Suite 200
Yakima, WA 98902-3452

Dear Mr. Sandison:

Thanks for the opportunity to review and comment on the Draft Programmatic Environmental Impact Statement (EIS) for the proposed Columbia River Water Management Program. We have reviewed the draft EIS and offer the following observations and comments.

As you are aware, the Bonneville Power Administration (BPA) is a federal agency that has a statutory obligation to market and transmit the power generated by federal dams along the Columbia River, known as the Federal Columbia River Power System (FCRPS), while balancing our other responsibilities such as fish and wildlife. We believe it is important to fully understand the impact of activities or programs that could affect our numerous responsibilities regarding the FCRPS before they are implemented. The draft EIS "Chapter 4 Impacts and Mitigation Measures", however, says very little about the power impacts of the proposed Columbia River Water Management Program other than to say that, "diverting water from the Columbia River for storage and use elsewhere might reduce the amount of water available to generate hydropower and support navigation activities."(pg 4-21) We believe this to be understated. Furthermore, the EIS is silent to the fact that lifting (the lowest lift of the four remaining for storage projects is 210 feet) at least one million acre feet would create a winter time load greater than most utilities in the area. The draft EIS is silent as well in regards to the impacts to the regional transmission system

As the State of Washington moves forward with consideration and development of its proposed Columbia River Water Management Program, we believe that a more in depth assessment of the power impacts of the proposed actions will need to be completed. While the initial Columbia River Initiative had an economic study which looked at the power implications and the potential loss in revenue, that information is now outdated. Any proposed actions under the currently proposed Program should be reviewed with new information regarding the price of power and the replacement or the opportunity cost of power. We are interested in working with the State on future assessments of these costs.

In addition, we would like to clarify a statement made in the EIS about the duration of the Columbia River Treaty. The EIS states that the Treaty "has a 60-year duration." (p. 3-45). In fact, the Treaty has no termination date. The Treaty allows either Canada or the U.S. the option to terminate the Treaty in 2024 with a 10 years advance notice. If neither party chooses the option, the Treaty can continue in perpetuity without any changes. The discussion of the Treaty is brief, but it is important to correctly describe what happens in 2024.

My staff is available to continue to work with you and your staff as more information becomes available and you move through the consideration process for your proposed Program. I have asked Rob Diffely at (503) 230-4213 or Cindy Custer at (360) 943-5375 to be the points of contact for further discussions on aspects of the Program of interest to BPA.

Sincerely,

Stephen R. Oliver
Vice President, Asset Management

cc:
Mr. Jim Barton, Corps of Engineers
Mr. Pat McGrane, Bureau of Reclamation
Mr. Bill Gray, Bureau of Reclamation
Mr. Dan Hallar, Washington State Department of Ecology

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November 20, 2006

Derek Sandison
Department of Ecology CRO
15 W. Yakima Ave., Suite 200
Yakima, WA 98902-3452

RE: Programmatic EIS

Dear Mr. Sandison,

Please accept these comments on the Columbia River Water Management Program's draft Programmatic Environmental Impact Statement, submitted on behalf of Sierra Club's Upper Columbia River Group.

A quote from Blaine Harden's book, "A River Lost - the Life and Death of the Columbia", seem appropriate to open these comments.

> Testifying before the state legislature in 1984, [WSU economist Norm] Whittlesey ... calculated that each one thousand-acre farm added to the [Columbia Basin] Project would cost the Northwest about $200,000 a year in higher utility bills. That was the cost of replacing the electricity lost when farmers took water from the river. ...
>
> As for construction cost, Whittlesey calculated that any expansion of the Project would cost $5,000 an acre, with farmers paying just $115.
>
> The professor further concluded that expanding the Project would increase the country's surplus of grain, take water away from migrating salmon, and penalize the vast majority of Northwest farmers, who lived outside the Project and yet would have to pay higher taxes and electricity bills to support a scheme that only benefited their competitors.

Whittlesey's 1984 economic analysis effectively put a stake in the heart of expansion of the Columbia Basin Project. Twenty years later the economics are even more unworkable. But in 2006, Governor Gregoire gave her highest legislative priority to passing the dam bill. Parts of the Columbia Water Management Program are designed to increase the farms served by the Columbia Basin Project while elsewhere the Program will create new publicly-funded subsidies for agriculture. None of this makes economic sense for taxpayers and ratepayers who foot the bill.

The Washington Legislature delivered by giving the governor what she wanted, without adequate consideration of the economic, environmental and social consequences of authorizing a new bureaucracy within the Department of Ecology with a mission to develop water supply.

As noted on the Dept of Ecology's website,

> This State Environmental Policy Act (SEPA) Draft Environmental Impact Statement (EIS) has been prepared to assist the Department of Ecology (Ecology), other participating agencies and entities, and the public in evaluating conceptual approaches to the development of a Columbia River Water Management Program. The Management Program is being developed to implement the Columbia River Water Management Act (Chapter 90.90 RCW), passed by the state legislature in February 2006.
>
> The purpose of the legislation is to develop new water supplies "to meet the economic and community development needs of people and the instream flow needs of fish." The legislation directs Ecology to "aggressively pursue" the development of water supplies. The purpose of this programmatic Draft EIS is to describe the potential impacts that could be associated with the components of the Management Program. The major components evaluated in this document are storage, conservation, Voluntary Regional Agreements, and policy alternatives for implementing requirements of the legislation. The Draft EIS also evaluates potential impacts associated with three actions identified for early implementation-drawdowns of Lake Roosevelt, a supplemental feed route to supply Potholes Reservoir, and the proposed Columbia-Snake River Irrigators Association Voluntary Regional Agreement.

Now the public is confronted with a programmatic environmental impact statement that fails to get to the heart of the issues. My experience with programmatic EISs has found that they are plans to do more planning – where key analysis and decisions are deferred to another day and document, and when that day and document arrive the information and analysis is not there. The result: the agency and public officials set up a shell game with eastern Washington's rivers and habitats where the public is forever chasing the pea – while the environmental damage takes place. The programmatic EIS is a red flag for a flawed political process.

The following are the salient points regarding the PEIS:

(1) No More Dams for the Columbia Basin

Dams destroy shrub-steppe, ephemeral streams, and wetlands. These lands support a diversity of species, including endangered wildlife, that should be protected. These last pockets of Columbia Plateau habitat are valuable and should be protected from development.

Hawk Creek, Lower Crab Creek, Foster Creek & Sand Hollow Creek. The state is now targeting these watersheds. If you have knowledge and information about the wildlife, habitat, aesthetic and other values of these areas, this would be a good time to share it with the Department of Ecology.

Dams will not help fish. The premise that new dams and reservoirs will help fish by releasing one-third of the "new" water into the Columbia River – is false. Solar-heated, sediment-laden, slackwater from reservoirs cooking in the heat of the Columbia Plateau summers will harm fish, not help them.

Water is not available. Most of the water of the Columbia River is already allocated to irrigation, hydropower, and target flows for fisheries, year-round. While the Washington legislature has imprudently legislated otherwise, that does not make it true. The PEIS is deficient for failing to acknowledge and discuss necessary mitigation for months other than July and August.

The PEIS does not create a coherent "big picture." Alleged demand for water supply is being driven from several locales, including irrigators in the Columbia-Snake River region, Yakima basin and Odessa Subarea. Even assuming a modest additional amount of water can be taken from the Columbia River, there is only so much to go around. How does the state propose to choose between irrigators in different parts of the Columbia basin? This PEIS fails to address this fundamental question.

In reality, there is no demand for water. The state's Water Supply Inventory (issued almost simultaneously with the Draft PEIS) indicates that there will be little demand for new irrigated cropland in the coming decades. If this is the case, why is Washington throwing millions of dollars at studies and proposals for new dams and storage reservoirs? To the extent there is local demand for water, local irrigators should pay for it through water markets and transfers, pricing and other economic tools. The state should not subsidize water for agriculture.

(2) Sustainability is a key issue for our agricultural communities.

Sustainable agriculture. The state should use its funding and resources to promote sustainable agriculture. Sustainable agriculture means environmentally friendly farming methods that allow the production of crops and/or livestock while preserving and improving the ecosystem, including maintaining soil fertility and water quality and quantity, preserving biodiversity, and otherwise protecting natural resources.

New dams are the antithesis of sustainable agriculture. Period.

New dams are subsidies for corporate agriculture. The Columbia Basin Project is already one of the most heavily subsidized irrigation projects in the country. Washington has neither the resources nor the need to extend this subsidy to corporate farms. The state should get out of the dam-building business before it becomes invested in projects that damage the environment.

(3) The Programmatic EIS fails to consider cumulative effects

Cumulative effects are changes to the environment that are caused by an action in combination with past, present and future actions, human and otherwise. The PEIS does not consider the impacts of new dam building and new irrigation projects added on top of the extensive dam, reservoir and water supply infrastructure that already exists on the Columbia Plateau.

The discussion of a new Potholes feed route fails to identify the purpose of the action: to extend the Columbia Basin Project eastward. The state is assessing whether the Bureau of Reclamation should send more water from Grand Coulee to Potholes Reservoir. However, the PEIS does not acknowledge that the feed route is intended to extend the Columbia Basin irrigation project eastward. This is "piece-mealing" – exactly what environmental impact statements are supposed to avoid.

The discussion of Potholes feed route fails to identify impacts to Crab Creek. Under the proposal, Crab Creek's natural streambed would be used as an irrigation ditch. The discussion of the impacts of this action is completely inadequate.

The discussion of "Lake Roosevelt drawdown" fails to identify impacts to the Columbia River. The state asserts that taking more water out of Lake Roosevelt (behind Grand Coulee Dam) will have virtually no impacts. There is no discussion of the overall impacts of the existing dam, reservoir and irrigation project and the extent to which this proposal would add to them.

Why is the state conducting project-level analysis of the Potholes feedroute? If the state intends to defer to the Bureau of Reclamation for future environmental analysis, what is the point of the perfunctory analysis in the PEIS?

The information in the PEIS is so generalized as to be useless. Discussion of impacts regarding dams, reservoirs, and conservation projects is without site-specific detail and of no use to determine actual impacts and mitigation associated with such activities.

(4) Voluntary Regional Agreement is a Bad Idea

The PEIS assesses a proposal to give new water rights to the Columbia-Snake River Irrigators Association using an untested new mitigation process called Voluntary Regional Agreements (VRA).

Proposed VRA would subsidize corporate agriculture. The PEIS gives examples of how the VRA would work, including proposing a 45-year interest-free loan to irrigators to pay for dam construction. The VRA is a Very Bad Idea and should be rejected.

Proposed VRA would require Columbia River mitigation only during July & August. For unknown reasons, the Washington legislature enacted a law asserting that water withdrawals are a problem for the Columbia River only during July and August. This "law" is problematic because it false. Water withdrawals from the Columbia River create adverse impacts almost

year-round. But the PEIS would only require new VRA-based water rights to mitigate during July & August. This is incorrect and must be corrected.

(5) PEIS & Policy Choices

Rather than engage in formal public policy analysis, the Department of Ecology is using the PEIS to assess various policy choices involving water management. This dubious approach to decision making could lead to expenditure of hundreds of millions of dollars without formal rulemaking or policy analysis. The state should re-assess its method, but in the meantime, the following comments on the PEIS are needed.

Washington should not "aggressively pursue" new dams. The PEIS suggests that the Columbia River Water Management Program requires the state to build new dams. As noted above, dam-building will create significant environmental impacts. The state needs to hear otherwise.

Public investments should lead to public benefits. When Washington spends tens of millions of public dollars on water conservation projects, saved water should be applied to improve streamflows, water quality, and other public benefits.

No interbasin transfers of water. The PEIS proposes to allow water savings in the watersheds to be used by mainstem irrigators. This policy option should be rejected. To the extent that water conservation can be achieved in the watersheds, the benefits should remain in those watersheds.

Do not issue new, uninterruptible water rights. The National Academy of Sciences studied Washington's Columbia River water management program and made several explicit recommendations. One of them is that the state should not issue water rights that cannot be interrupted when flows in the Columbia River drop to the point of harming fish. Nonetheless, the PEIS is considering exactly how to do that. The state needs to JUST SAY NO to new water rights.

No special treatment for VRAs. Mainstem Columbia River irrigators want to use the VRA process to cut to the front of the line, to obtain state subsidies, and to use water conservation obtained in watershed upstream of the Columbia mainstream. These proposed policies should be rejected.

Your attention to these comments is appreciated.

Sincerely,

John Osborn

John Osborn, MD
Conservation Chair
Upper Columbia River Group, Sierra Club

cc: Gov. Gregoire, Sen. Brown, Rep. Ormsby

CONFEDERATED TRIBES
of the
Umatilla Indian Reservation
Department of Natural Resources
ADMINISTRATION
P.O. Box 638
73239 Confederated Way
Pendleton, Oregon 97801
Area code 541 Phone 276-3447 FAX 276-3317

Comments of the Confederated Tribes of the Umatilla Indian Reservation Department of Natural Resources

On the *Draft Programmatic Environmental Impact Statement for the Columbia River Water Management Program*

Submitted in response to the Draft Programmatic EIS for the Columbia River Water Management Program, issued by Washington Dept. of Ecology, dated October 5, 2006. Ecology Publication Number 06-11-030

November 22, 2006

Derek I. Sandison
Central Regional Director
Washington Department of Ecology
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Comments compiled and submitted on behalf of the Confederated Tribes of the Umatilla Indian Reservation by the Department of Natural Resources.

Contacts: Mr. Eric Quaempts, Director, Department of Natural Resources
Mr. Rick George, Manager, Environmental Planning/Rights Protection Program
Ms. Jennifer Hudson, J.D., Water Rights Policy Analyst, Environmental Planning/Rights Protection Program

I. Introduction and Overview

The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) submits the comments below on the Columbia River Water Management Program Draft Programmatic Environmental Impact Statement (DPEIS) which was issued October 5, 2006.

The CTUIR is a federally-recognized Tribal Government with rights, interests and vital economic assets located in the State of Washington subject to the 1855 Treaty between the United States and the tribes of the CTUIR (12 Stat. 945). Said Treaty was ratified by Congress March 8, 1859.

Rights, interests and vital economic assets of CTUIR attach to and include the Columbia River, the Snake River, the lower Yakima River, the Grande Ronde River, the Walla Walla River, the Tucannon River and the lands and resources in the Columbia River Basin to which the DPEIS applies.

The CTUIR is honored to be a part of Washington's Columbia River Water Management Program and looks forward to working closely with the Governor's office, Ecology and Department of Fish and Wildlife, and Washington's citizens to make the Program a success.

The comments below are submitted by CTUIR to provide constructive advice and recommendations for improvement, to identify key and critical areas of deficiency – especially regarding the rights, interests and vital economic interests of CTUIR – and to assist in making the Columbia River Water Management Program a success.

II. CTUIR Water Rights and the Programmatic EIS

The Programmatic DPEIS was prepared to generally address probable significant adverse and beneficial impacts associated with implementation of components of the Columbia River Water Management Program. To this end, and pursuant to RCW 90.03.380, Ecology may not approve a new water right or change of water right if detriment or injury to existing water rights would result. Nor may Ecology approve a Voluntary Regional Agreement (VRA) that impairs or diminishes valid water rights.

Tribal water rights, are deserving of protection because they arise under federal law, because of their early priority date, and because they cannot be forfeited by non-use. Necessarily, in order to ensure against injury to existing water rights and to address probable adverse impacts associated with implementing the Program, Ecology must present in the DPEIS an adequate explanation, analysis and estimation of impacts to existing water rights. Unfortunately, the DPEIS fails to present the extent of existing, but largely unadjudicated Tribal water rights.

The DEIS says little more than that the, "[c]reation of a tribal reservation may also imply the use of water for long-established aboriginal uses such as fishing and hunting." In

section 3.4.1.1, at page 3-18, the DEIS states that there are no tribal in or out-of-stream flow requirements pursuant to the Tribal water right. The graph on the same page indicates that the quantity of the water right is "not specified - fishing and hunting in Usual and Accustomed places; practicably irrigable acres." And again, at 3-43, the DEIS states that Tribal water rights for fish is "largely unquantified". These brief statements in the DEIS indicate that Ecology needs to express to the public a broader understanding of Tribal water rights. This lack of information and analysis must be corrected.

It is a certainty that Tribes have water rights implied from existing fishing rights. That water right is necessary to protect the fishing right. The quantity of water Tribes have a right to is the amount of water necessary to protect the hunting and fishing rights of Tribes. Many cases have addressed Tribal in-stream flow water rights to satisfy rights reserved by treaty or under the Winter's Doctrine, including the following cases:

> United States v. Winans, 198 U.S. 371 (1905); Colville Confederated Tribes v. Walton, 647 F.2d 42 (9th Cir. 1981), cert. denied, 454 U.S. 1092 (1981)(Walton I); United States v. Adair, et. al., 478 F. Supp. 336 (D. Or. 1979), aff'd 723 F.2d 1394 (9th Cir. 1984), cert. denied sub nom., Oregon v. United States, 467 U.S. 1252 (1984); Kittitas Reclamation Dist. v. Sunnyside Valley Irr. Dist., 763 F.2d 1032 (9th Cir. 1985), cert. denied, 474 U.S. 1032 (1985); Joint Board of Control of the Flathead, Mission and Jocko Irr. Dist. v. United States, 832 F.2d 1127 (9th Cir. 1987); Wash. Dept. of Ecology v. Yakima Res. Irr. Dist., 850 P.2d 1306 (Wash. 1993).

Whatever amount of water that is necessary to ensure the viability of the fishery in an amount that meets the Tribes' economic, cultural, subsistence and dietary needs is the amount of stream flow to which the Tribes are entitled. Nor is the water right limited to stream flows, for it extends to whatever is necessary to ensure the viability of the fishery, such as maximum temperatures.

The CTUIR treaty right to harvest fish implies a water right. The United States Supreme Court has held that, "[w]here water is necessary to fulfill the very purposes for which a federal reservation was created, it is reasonable to conclude, even in the face of Congress' express deference to state water law in other areas, that the United States intended to reserve the necessary water right." *United States v. New Mexico*, 438 U.S. 696 at 702 (1978).

The water right extends to the exercise of off-reservation fishing rights and is to an amount necessary to protect the fishing right. In *United States v. Adair*, 478 F. Supp. 336 (D.C. Or. 1979) the court held that "Indians are... entitled to as much water on ... Reservation lands as they need to protect their hunting and fishing rights." *Adair* at 345. This water right was not limited to Reservation lands as the case involved the water right of the Klamath and Modoc Tribes over lands that were once their reservation lands, but were terminated in 1954. The treaty these tribes have granted them the exclusive right to take fish in the streams and lakes of the Reservation. That right ran with the lands regardless of who owned the land. Because the right to fish ran with the lands, so did the water right necessary to protect the right to fish. As the court wrote, "[i]f the preservation of these rights requires that the Marsh be maintained as wetlands and that the forest be maintained on a sustained-yield basis, then the Indians are entitled to whatever water is necessary to achieve those results." *Adair* at 346.

At the very least, the water right is to a quantity necessary to maintain a fishery. In *Colville Confederated Tribes v. Walton*, 647 F.2d 42 (9th Cir. 1981) the court held that the executive order establishing a reservation for the Colville Tribes necessarily included a reservation of a right to the quantity of water necessary to main a fishery at Omak Lake, despite the fact that there was no language in the executive order either granting an express right to fish nor a right to water, because the preservation of the tribe's access to fishing grounds was one of the primary purposes for which the Reservation was created. *Walton* at 48.

The water right includes a right that water temperatures be maintained at an appropriate level and a right that there be adequate instream flow to maintain the fishery. In *United States v. Anderson,* 591 F. Supp. 1 (E.D. Wash. 1982, overturned on other grounds) the court found that the Spokane Tribes had a right to water along the Chamokane Creek sufficient to preserve their fishing rights. Their fishing rights, as with the Colville Tribe, were implied from the purposes for which the Spokane Reservation was created. The water rights, which were implied from the implied fishing right, included both the right that the water not exceed a certain maximum temperature and that there be a minimum flow of water through the creek in order to ensure the viability of the fishery. *Anderson* at 5.

This water right attaches regardless of the impact it has on other competing uses. In each of the above-mentioned cases the courts held that a Tribal water right existed by implication from an either explicit or implied right to fish. The implied water right was to a quantity and quality sufficient to ensure protection of the right to fish, and consequently, to a viable fishery. Because of this, these Tribal water rights arise without regard to equities that may favor competing water uses. *Cappaert v. United States*, 426 U.S. 128 (1976).

The DPEIS must be amended to reflect the full scope of Tribal water rights. It must acknowledge that tribes not only have rights implied from existing rights to harvest fish, but that the right is capable of being quantified in so far as Ecology can establish

minimum stream flows and maximum temperatures necessary to ensure against the diminishment of existing fisheries and fish habitat. Finally, Ecology must acknowledge in theDPEIS that this right to minimum flows and maximum temperatures exits regardless of the impact it has on competing uses, that is to say, on other existing and potential future non-Tribal water rights as well as the creation of new storage facilities and other mitigation actions.

The DPEIS must account for the CTUIR water rights in the Columbia River by acknowledging their existence. Ecology should strongly consider the ruling of the Montana Supreme Court that the state Department of Natural Resources and Conservation was prevented from acting on applications for non-Indian water rights and changes in points of diversion and place of use until such time as the Department had quantified Tribal reserved water rights. In the matter of the Application for Beneficial Water Use Permit, *278 Mont. 50; 923 P.2d 1703(Mont. Sup. Ct. 1996)* Ecology should consult with CTUIR to develop an estimation of the amount of water and the water quality necessary to protect and restore the fishery such that the Endangered Species Act does not limit it, and such that the fishery provides an acceptable level of harvest and sustainability consistent with the Tribe's treaty rights.

III. Purpose and Need of the Proposal and the Programmatic EIS

The DPEIS does an adequate job of describing the needs, subject to Engrossed Second Substitute House Bill 2860, for new water development to address pending consumptive use water right applications, communities with unreliable or inadequate water supplies to meet current or future needs, and the inconveniences of "interruptible" water rights issued since 1980.

The DPEIS should add an assessment of the opportunity to revise existing flood storage rules to reshape the flood water storage regime. This could provide a substantial amount of "new" water without the costs of large federal water project development and in a more timely way. This proposal should be analyzed as an early action alternative.

The DPEIS does a wholly inadequate job of representing the mutual, second major goal of ESSHB 2860 – protection and recovery of Columbia Basin anadromous and resident native fisheries through restoration of critical instream flows. The DPEIS does not provide an adequate or substantive analysis of the need for flow protection, of the need for flow enhancement nor of the potential conflicts between new water development and allocation to instream flows or out-of-stream uses. This deficiency is reflected at a minimum in the following key areas:

- Disclosure and examination of the criticality of salmon and other native fish stocks, such as sturgeon and Pacific lamprey – from interpretation of the status that many stocks are extinct and most extant stocks are so critically impacted as to be listed under the Endangered Species Act as either threatened or endangered.

- Disclosure and examination of the direct causative factors for the past (1930's through the present) decimation of salmon and other stocks being water development, dam construction and operations and reshaping of the hydrograph.
- Socio-economic analysis of the losses to Tribal economies and to the Washington economy from lack of commercial, recreational and tribal fisheries and of the potential economic, cultural and social contribution from robust fisheries.
- "A major area of uncertainty in the Columbia River Basin is the relationship between environmental variables and the survivability of anadromous fish. . . . In particular, the relationship between flow levels in the Columbia River and salmon survival is not clear. It is known that lower survival rates and changes in salmon migratory behavior are expected when stream flows become critically low or when water temperatures become excessively high." DPEIS Pg. S-10.

The DPEIS also does an inadequate job of representing the interests of Tribal Governments and their fishing constituencies, the current and potential economics of tribal and non-tribal fisheries and the balance that must be struck between out-of-stream development of new water sources and restoration and protection of instream flows. Tribal treaty rights to fish, and their inherent rights to stream flows and habitat conditions necessary to protect the fishing rights are not adequately described relative to providing water to satisfy tribal needs and rights.

The DPEIS notes generally that "[t]he socioeconomic impacts of additional water supply would likely be positive for those who receive the water, but may have negative impacts for others at the local and regional level" (DEIS, Page S-4). Even in its general treatment of the issue, however, the DEIS does not sufficiently address the potential socioeconomic impacts on the CTUIR and other tribes from possible further damage to and degradation of the fishery resource and the habitat on which it depends that might result from the Program or individual projects.

The DPEIS fails to adequately recognize and plan for, similar to the way it inadequately addresses the fishery needs and CTUIR water needs, the needs and requirements of the State of Oregon.

Because the purpose and needs portions of the DPEIS do not describe the criticality of fish populations, the restored habitat conditions required by the fish, and the requirement that new water developed under this Program be provided to offset this need, the remaining chapters are substantively deficient in describing current conditions, developing alternatives, and documenting and analyzing impacts of program components and early actions. And, logically, those deficiencies preclude defining and analyzing the policy issues extant in implementing programs to restore stream flows needed to recover fish populations.

The passage quoted above, from DPEIS Pg. S-10, places undue emphasis on "uncertainty" and a supposed lack of clarity. It ***is*** clear that dams on the mainstem Columbia and Snake Rivers, coupled with extensive water withdrawals from both the mainstem and the tributaries, have contributed significantly to an overall, substantial

increase in the amount of time it takes for downstream migrating juvenile salmonids to reach the estuary and then the ocean. This increased travel time has forced such migrants to endure, for a longer period, increasingly hostile in-river conditions. These conditions are also created and aggravated by those same factors—dam passage mortality (direct and indirect, or delayed) and lower, slower flows and concurrent higher water temperatures and other habitat changes that promote increased predation on salmon (caused by the creation of reservoirs and impoundments and less water because of withdrawals). This extended travel time, under increasingly unnatural conditions, is contrary to the evolutionary history and development of anadromous fish in the Columbia River Basin.

The risk from further exacerbating this situation is one that salmon cannot afford. Additional out-of-stream diversions, at ***any*** time of the year, must be fully mitigated, and consistent with ESSHB 2860, additional water developed and provided permanently to restore instream flows . Recent data and other information, particularly that which has been derived, and continues to be developed, in the remand process for the ongoing litigation over the Biological Opinion for the Federal Columbia River Power System (FCRPS), indicates increased survival correlates with decreased travel time—and higher flows reduce travel time. The Columbia River Water Management Program must provide solid assurances that instream flows will not be diminished—not just in July and August, but throughout the year.

The National Research Council study and report highlighted the particularly harmful conditions that often prevailed in the later summer (specifically naming July and August) from lower flows and related higher temperatures. The CTUIR does not believe the Council's work suggested or implied that conditions were always satisfactory for the other ten months of the year, every year, and that unmitigated water withdrawals were therefore necessarily appropriate during those periods. As part of the repeated Biological Opinions for the FCRPS issued by NOAA Fisheries, seasonal flow targets have been established as desired mileposts to be achieved. Over a number of years, however, those targets have routinely not been met, most often in the summer but at other times of the year as well. Additional out-of-stream diversions should occur only when their negative impacts on fish are completely mitigated, regardless of when they occur.

The DEIS is unclear as to whether or not it will improve the likelihood of meeting current flow targets. It is similarly unclear as to how the Program would be reconciled with additional requirements for instream flows and related measures that may result from ongoing litigation over the FCRPS BiOp and/or the upper Snake River BiOp involving Bureau of Reclamation storage projects (*See* DEIS, Page S-7). CTUIR recommends the DPEIS move ahead of this unpredictable litigation and the gridlock in the Basin by promoting, quantifying and implementing instream flow protection and restoration as an inherent component of the Program

Ecology, in drafting the Programmatic EIS, must incorporate, or at least give serious consideration to, Tribal materials that bear on pertinent issues that it has not yet reviewed.

ESSHB 2860 is intended to operate in a manner that ensures conservation and the instream flow needs of fish. It also requires Ecology to assess the short term and long term effects implementation of the Act has on cultural and the environmental resources. Section 1(1) of the Act states in part, "The legislature finds that a key priority of water resource management in the Columbia river basin is development of new water supplies that includes... conservation in order to meet... the instream flow needs of fish." To this end, Section 2(3)(a) prohibits funds being expended to develop new storage facilities until Ecology evaluates, among other things, the benefits and costs of water uses to be served by the facility, which includes short-term and long-term cultural and environmental effects.

Ecology must consider material from various sources, including Tribes, that it has not yet considered in drafting the DPEIS. Section 2(3)(b) of the Act states, "The department of ecology may rely on studies and information developed through compliance with other state and federal permit requirements and other sources." The usage of these other sources is to assist it in evaluating, in part, the instream flow needs of fish and the cultural and environmental costs of expending funds to develop new storage facilities. Section 5(1) of the act requires Ecology to work with tribal governments to develop a Columbia river water supply inventory and supply and demand forecast in order to, in part, support the development of new water supplies to protect instream flows. Pursuant to Section 5(1)(b)(ii) and (iv), that inventory must include estimates of the benefit to fish and other instream needs as well as environmental and cultural impacts. Section 6(1) requires Ecology to establish and maintain a Columbia river mainstem water resources information system, the purpose of which is to provide information necessary for effective mainstem water resource planning and management. Presumably, that effective planning and management includes the instream flow needs of fish, and the cultural and environmental impacts of any action taken under the Act. Section 6(2) requires Ecology, in order to accomplish this objective, to "use information compiled by existing ... and other available sources."

Unfortunately, neither the list of background materials used in preparing the Draft EIS, found at page 5, nor Chapter 7.0 entitled "references", include any Tribal materials. Most notably, there is no mention of Wy-kan-ush-mi Wa-kish-wit or any other materials developed and published by Columbia River Intertribal Fish Commission.

CTUIR encourages Ecology to consult and consider including in the DPEIS information from the following sources:

Fish Passage Center, "2005 Annual Report," July 2006. This report, like others before it, documents (among other things) failure to meet ESA flow targets; e.g.,

"The runoff volume for 2005 was approximately 74% of average at The Dalles Dam and 68% of average at Lower Granite Dam. This low runoff volume associated with 2005 resulted in two significant results: first, Biological Opinion seasonal flow targets of 85 Kcfs at Lower Granite Dam, 220 Kcfs at McNary Dam and 135 at Priest Rapids Dam were not met; and secondly, since flows were predicted to be below 85 Kcfs at Lower

Granite Dam, the Biological Opinion spring spill did not occur at the transportation collector projects in the Snake River. Spill at Ice Harbor Dam occurs under any conditions according to the Biological Opinion." (P. 230)

CRITFC, 2006 River Operations Plan.

Oregon & CRITFC, "The Oregon/CRITFC Proposal" or "Hydro Actions Matrix" (10/18/06). The ESA BiOp remand process is subject to certain confidentiality limitations; however, Ecology should be able to obtain the proposal from Washington's representatives to the remand.

CRITFC, *Wy-Kan-Ush-Mi Wa-Kish-Wit (Spirit of the Salmon)* (1995) (http://www.critfc.org/text/trp.html).

The DPEIS must define the needs of instream flow restoration and then, consistent with SEPA, analyze the methods and the impacts of those methods to get there. Ecology will find that in some places the arbitrary two thirds-to-one third standard of water for new out-of-stream water rights is inadequate to achieve instream flow restoration objectives. In those cases Ecology will find that a successful Program will depend upon the flexibility to put more water than a one part out of three from new storage into stream flow restoration. CTUIR is hopeful that Ecology will plan for that need in the next revision to the DPEIS.

IV. Proposal and Alternatives

The DPEIS does an adequate job of displaying, describing and linking programmatically the primary projects that will be analyzed to provide new water for consumptive uses. Section 2.1.2 illustrates the primary problem in Chapter 2 which then is carried forward throughout the remainder of the Chapter and of the document – the section identifies four primary needs in response to ESSHB 2860 for which the Program is to respond. It unfortunately omits the need of protecting and restoring instream flows for fish recovery and habitat restoration. ESSHB 2860 provides the following direction relative to stream flows:

Sec. 1 (1) The legislature finds that a key priority of water resource management in Columbia river basin is the development of new water supplies ...to meet the instream flow needs of fish."

Sec. 3 (ii) One third of active storage shall be available to augment instream flows..."

It is impossible for Ecology to carry out the Program without, at the start, planning to achieve stream flow restoration.

Adequate prioritization and analysis of projects to address instream flows needs and the impacts of projects upon instream flows, both requirements of the legislation[1], is missed

[1] Not to mention other requirements such as Tribal treaty rights and the Endangered Species Act

throughout the remainder of the document because Chapter 2 of the DPEIS did not identify the instream flow need. This serious flaw and omission, arguably inconsistent with the requirements of Washington SEPA and certainly at odds with the requirements of the National Environmental Policy Act, must be remedied throughout the document.

Certainly, a successful Washington Columbia River Water Program is inherently contingent upon a fair, balanced treatment of the need to protect instream flows and provide a quantifiable amount and quality of water for stream flow restoration. Proper disclosure, assessment and analysis of such in the DPEIS are prerequisite. The DPEIS should be amended to reference an amount of water necessary to protect instream during all months, and the amount of water necessary to "develop" and return to instream flows in order to protect and restore the fishery and the potential sources for that water.

The list of potential impacts of Lake Roosevelt drawdown, additional storage development, conservation and all other Program components should include increased instream flows and increased ability to meet minimum mainstem Columbia and Snake river flow targets established by NOAA Fisheries. It should also reference increased ability to meet tribal instream flow water rights, protect CTUIR interests and restore the ability of CTUIR to exercise its treaty rights to fish.

It should be noted that Chapter 2 suggests, e.g. on page 2-3 under New Large Storage Facilities, that a new large storage project would benefit the proposed Walla Walla exchange project. Under the current planning and scoping of the exchange project alternative for the Walla Walla River, new mainstem Columbia or Snake river storage is not required and would probably not provide a benefit to the exchange project. In addition, Sec. 2.1.2.2 Pump Exchanges should note that the Walla Walla exchange proposes to exchange *Columbia River* water for Walla Walla River water.

Though the ESSHB 2860 indicates that impacts from the Voluntary Regional Agreements need only meet a no net loss standard on the Columbia River in July and August, and on the Snake River in April through August, both overwhelming science and controlling law indicate otherwise. Instream flows are critical in both rivers in every month of the year – not recognizing that fact has led to the current situation of dry rivers, or rivers with compromised flows and many salmon extinctions and population crashes. The DPEIS must provide a balanced analysis of the instream flow situation that reflects the science of the Columbia River Intertribal Fish Commission and it's member tribes (CTUIR is included), the National Marine Fisheries Service (NOAA Fisheries), Oregon Department of Fish and Wildlife (ODFW) and Washington Department of Fish and Wildlife (WDFW). It is noted here that the NOAA Fisheries indicated to the Columbia Program Policy Advisory Group that instream flows are critical in each month and cannot sustain further depletion in at least April through August and that Fall Chinook, a critical species to Washington in the Hanford Reach are spawning in November and December and also cannot sustain further flow reductions or fluctuations.

CTUIR commends Ecology and the Washington Legislature for requiring the data collection and analysis – Inventory and Demand Forecasting – necessary to answer

questions about current demand, use within water right constraints, future demand and the opportunities for reallocations. The DPEIS should specifically direct and schedule timeframes for metering of all diversions and a link between future development of "new" water to achievement of that objective.

Definitions and Alternatives for Program Implementation:

Ecology should incorporate the following alternatives into a revised PEIS:

1. Planning, providing for and analyzing the impacts of water volumes to achieve stream flows necessary to protect tribal water rights and restore fisheries
2. Aggressively pursue storage options as an optional means to restore stream flows and provide water for future economic development.
3. CTUIR agrees that Ecology should consider any conservation project, including those implemented prior to the date of the legislation. The amount of water conserved and provided for protection should be the amount conserved and funded by public funds.
4. Ecology should reconsider disallowing inter-WRIA transfers as such transfers could provide the most benefits to instream flows, especially where a new downstream use is at distant from the conservation or addition of flow. Additionally, this could preclude implementation of the Walla Walla exchange which would transfer water from the Columbia River to the Walla Walla River Basin.

Policy Issues:

CTUIR recommends the following on policy choices:

1. Ecology should aggressively pursue storage projects.
2. Ecology should use the best available science/methodology that provides the most return to instream flows.
3. Ecology should fund projects that benefit instream flows and water quality only.
4. Acquisition and transfer should, consistent with Trust Water Program, apply to any non-storage project.
5. Ecology should not waive the instream water right until the Program, exemplified in a revised DPEIS, specifically plans to develop new water to achieve a quantified instream flow regime in the Columbia and Snake rivers.
6. Ecology should aggressively pursue VRA's to implement instream flow restoration and protection.
7. Ecology should process VRA's consistent with existing Rule.
8. "No Net Negative Impact" should be defined so as to preclude withdrawal upstream from new water savings but allow withdrawal as far downstream as is measurable in order to maximize instream flow benefits.
9. No comment on mains channel definition.
10. Ecology should deny new water right applications if mitigation water is not readily available as part of the application.
11. Ecology should group applicants by WRIA.

12. Ecology should not use Program funds to mitigate for VRA applications unless a substantial instream flow benefit can be demonstrated.
13. Exempt wells must be included to complete the inventory and are not precluded by the legislation.

V. Walla Walla Basin Project

The Walla Walla Basin Project is arguably one of the most popular stream flow/irrigation projects in Washington. CTUIR recommends the DPEIS include additional details on the technical mechanics of the proposed Walla Walla River stream flow enhancement project currently under study by the U.S. Army Corps of Engineers and the CTUIR. The project, developed after the successful Umatilla Basin Project in Oregon, is a potential model for achieving a successful Columbia River Program in Washington.

Technically, the Feasibility Study is assessing the options to achieve stream flow restoration in order to allow, under separate authority, actions to recover native fish. Flow restoration will be achieved either by construction of a new storage reservoir or of an exchange pump project that would provide Columbia River water to current, legitimate irrigation rights. Full, efficient restoration will occur by implementing one of these projects in conjunction with water rights acquisitions or lease from willing sellers, conservation and potentially other environmental projects.

The project, identical to the Columbia River Program, seeks to achieve two mutual objectives: 1) restore stream flows; 2) protect existing legitimate uses of out-of-stream water as an inherent part of the project and potentially provide for additional water for future development.

Columbia River Program support for and funding of the Walla Walla Project is very important to residents of the Walla Walla Basin, elected officials that represent the Basin and to the CTUIR. CTUIR appreciates Washington's investment in the restoration of stream flows, recovery of native fish, enhancement of CTUIR Treaty rights and the concurrent protection of irrigated agriculture in the Walla Walla River Basin.

CTUIR is concerned that ESSHB 2860 may negatively impact implementation/construction of the Walla Walla Project. For example, if a reservoir were constructed to restore stream flows it would not allocate two thirds of the project water to new water rights and one third to instream flows. Rather it would allocate most of the reservoir volume to existing irrigation in order to exchange that volume for a similar volume that would be left instream in the Walla Walla River to restore flows. An exchange with Columbia River water would work similarly. At a minimum we'd like to see a more robust analysis as part of consultation with CTUIR to determine whether there is a likely conflict between the Walla Walla Project and ESSHB 2860 and, if there is, what should be done to rectify it.

VI. Water Quality and Bio-accumulative Toxins

Toxic chemicals, especially those that are bio-accumulative, are an existing problem in the Columbia River Basin (*see U.S. EPA Region 10, Columbia River Basin Fish Contaminant Survey, July, 2002.)*. This study should be referenced and cited in addition to the USGS and state assessments as it is the most comprehensive in the Basin.

Future water development should address and consider the impacts it would have on existing and additional toxic contaminants in the sediments, in the water column and in fish and upon existing high water temperatures in summer and fall. Dissolved gases also need to be addressed as they are an extant problem at the tailraces of existing dams.

VII. Voluntary Regional Agreements

Voluntary Regional Agreements are a potential tool for reallocating existing water so that instream flow needs and out-of-stream needs can be better met. CTUIR believes Ecology should pursue new agreements if Ecology chooses to implement the Program in such a way that protection and restoration of instream flows is a co-equal objective in implementing the legislation and Program.

Most important at this point to CTUIR is that it be clearly stated in the DPEIS that VRA agreements may not interfere with or injure a valid water right. The legislation is clear on that point. CTUIR's water rights in the Columbia River and elsewhere may not be injured by VRA projects or any other project contemplated in the Program.

VRAs should only be processed ahead of prior competing applications if the impact on instream flows is mitigated or avoided *and* if there is a substantial contribution toward the restoration of instream flows over and above that of mitigation or avoidance. Said another way, VRA applications that are consistent with the spirit of the legislation – that new water be made available for development and that instream flows are protected and restored should be rewarded.

The scope of "No Negative Impact" should be defined as either the same pool or the same pool but only downstream of the project. To go beyond that scale at programmatic level is to lose the ability to measure and manage.

Ecology should spend Program funds only on projects that provide substantial improvements in instream flow in the mainstem Columbia and Snake rivers and in major tributaries such as the Walla Walla River. VRA proposals should be self-funded unless there is a extraordinary reason to expend public funds – such as inclusion of a substantial improvement in instream flows as part of the project.

CTUIR questions the adequacy or relevancy of the Columbia-Snake River draft VRA proposed payment of $10 per acre foot to acquire new water or fund new projects but CTUIR does believe a substantially higher payment amount is warranted. The market value of water should be used to set this payment amount.

Again, and as stated above, Ecology must in this DPEIS evaluate the months beyond July and August in the Columbia River and April through August in the Snake River during which critical flow shortages exist and when additional flow is needed to recover native fish.

VIII. Cultural Resources

Overall CTUIR appreciates the review and analysis of cultural resources. We have the following specific questions and suggestions:

Page S-6: Cultural Resources
COMMENT: Change the fourth bullet to read: "Effects to integrity of Traditional Cultural Properties (TCPs) through inundation or alteration of characteristics that make the areas TCPs."

Page S-7: S.3.1.6 Mitigation Measures
Second sentence:
"Archaeological monitoring would be conducted during construction."

COMMENT: This may not be sufficient to mitigate effects to historic properties. The mitigation measures cannot be defined until the effects and the sites are understood.

Page S-8: S.3.2.1 Lake Roosevelt Drawdown
COMMENT: Add another bullet addressing erosion.

Page 3-80: 3.10.1 Legal Framework for Protection
Paragraph 1, second sentence:
"Ecology has initiated the project review process for the Management Program with DAHP."

COMMENT: Why haven't the affected Tribes been included in this review process?

Paragraph 2, first sentence:
"SEPA requires that cultural resources within a proposed project area be identified and that measures be proposed to reduce or control impacts on these resources."

COMMENT: It would be helpful if the definitions of cultural resources in the different laws (SEPA, NHPA, etc.) were explained here.

Paragraph 3:
"Section 106 requires that the effects of an undertaking on historic properties within the project's Area of Potential Effects (APE) be considered..."

COMMENT: The summary of section 106 of the NHPA should be clarified. Additional details may be necessary.

Page 3-81: 3.10.1 Legal Framework for Protection (continued)
Paragraph 1:
"Other federal laws that may apply…"

COMMENT: The Archaeological Resources Protection Act (ARPA) should be included.

Page 3-81: 3.10.2 Overview of Cultural Resources in the Project Area
Paragraph 3, first sentence:
COMMENT: "[Add "Pre-contact"] archaeological resources could range in age from 11,000 BP (years before present) to AD 1800."

Paragraph 3, third sentence:
"Historic materials may include structures or land alterations related to agriculture, transportation, homesteading, mining, logging, irrigation, orcharding, as well as historic cemeteries."

COMMENT: Historic archaeological sites should also be included.

Table 3-23. Historic Properties at Columbia-Snake River Reservoir Sites
COMMENT: The word "historic properties" in third column is misleading because most of these sites have not been evaluated for their eligibility for inclusion in the National Register of Historic Places. Additionally, it is not clear whether the built environment and Traditional Cultural Properties are included in the count. They most likely are not included but should be.

COMMENT: "275" historic properties in John Day Reservoir is incorrect if using Washington sites only.

Page 3-83: 3.10.2.3 EuroAmerican History of Region
Paragraph 2, last sentence:
COMMENT: All treaty rights retained should be added – hunting, gathering, grazing, and water.

Page 3-84: 3.10.2.4 Archaeological Resources
Paragraph 6, last sentence:
COMMENT: Fort Walla Walla was inundated by the backwaters of the McNary Dam (Garth, Thomas R.1951 Archaeological Excavations at Fort Walla Walla. Region Four, National Park Service. San Francisco, California).

Page 3-85: 3.10.3 Cultural Significance of Rivers
Paragraph 1, second sentence:
COMMENTS: "Petroglyphs and pictographs, [delete "art", add "images"] carved…"

Page 3-86: Crab Creek Route Alternative
Fourth sentence:

"Eleven other sites are presumed eligible for the NRHP."

COMMENT: By whom are these sites presumed eligible? Does this mean the others are presumed not eligible?

Page 3-86: W20 Route Alternative
First sentence:
COMMENT: How old is the West Canal? Is it a historic resource?

Third sentence:
"Nine site are presumed eligible for the NRHP."

COMMENT: By whom are these sites presumed eligible? Does this mean the others are presumed not eligible?

Page 3-86: Frenchman Hills Route Alternative
Fourth sentence:
"None of the sites are listed on the Washington Heritage Register or the NRHP, although two are presumed eligible for the NRHP."

COMMENT: By whom are these sites presumed eligible? Does this mean the others are presumed not eligible?

Page 4-24: Long-term impacts
COMMENT: Changes to the landscape and rivers could affects TCPs. For example, blockage of migrating fish and eels will compromise the integrity of traditional fishing areas.

Paragraph 2:
COMMENT: Long-term inundation could also introduce chemical changes to artifacts and features.

Paragraph 2, thirteenth sentence:
"With increased boat use, more sites could be accessible and become vulnerable to vandalism."

COMMENT: Increased boat wakes will adversely affect archaeological sites through erosion.

Page 4-25: Mitigation
Paragraph 2, second paragraph:
"A Programmatic Agreement is appropriate when compliance with Section 106 of the NHPA is required due to federal involvement."

COMMENT: Usually a PA is entered into to outline an alternative route to comply with Section 106.

Paragraph 2, fourth sentence:
"Signatories to the PA would likely include Ecology, Reclamation, and DAHP."

COMMENT: Rather than say DAHP, it should read "the appropriate historic preservation office(s)."

Paragraph 3, second sentence:
COMMENT: These are not really mitigation measures; they should be considered advanced planning efforts – archaeological remote sensing, excavation of archaeological sites, documentation of historic structures, etc.

Paragraph 3, second sentence:
COMMENT: "...and archaeological monitoring during construction [add "and for the length of the project"]..."

Paragraph 3, third sentence:
COMMENT: "...and DAHP and a professional archaeologist [add "and Tribes"] would be contacted for further assessment..."

Paragraph 4:
COMMENT: Mitigation measures also need to 1) mitigate indirect effects through purchase and protection, 2) mitigate on-going effects of project, and 3) provide for off-site mitigation in consultation with affected cultural group(s) as appropriate.

Page 4-32: Table 4-2. Comparison of Impacts for Types of Storage Projects
New Large Storage (>1 Million AF); second sentence:
COMMENT: "...and land development Mitigation measures [reword "should include development of" to "should be outlined in"] a Cultural Resources Management Plan and possibly a Programmatic Agreement [add "developed in consultation with Tribes"]."

Page 4-43: Long-term impacts
COMMENT: Existing systems may be historic properties and the effects to them would also need to be mitigated.

Page 4-47: Table 4-3. Comparison of Impacts for Types of Conservation Projects
Municipal:
COMMENT: Add "unless there are modifications to historic infrastructure" at end of sentence.

Regional Agricultural Efficiency Improvements, first sentence:
COMMENT: "...which involve ground disturbing activities [add "or modifying historic structures"] have potential to impact cultural resources."

On-Farm Conservation:

COMMENT: "...which involve ground disturbing activities [add "or modifying historic structures"] have the potential to impact cultural resources."

Industrial:
COMMENT: Add "unless there are modifications to historic infrastructure" at end of sentence.

Page 5-46: 5.4.1.9 Cultural Resources (Short-term Impacts, Long-term Impacts, Mitigation)
COMMENT: For them to say that the existing policy has no impacts on cultural resources is incorrect; granting water rights and determining flows have impacts on cultural resources.

RECOMMENDATIONS:
CTUIR wishes to ensure that the State of Washington complies with SEPA cultural resource provisions, state laws, and federal laws when applicable. More than likely the State of Washington will be required to apply for a Section 404 permit from the U.S. Army Corps of Engineers or will receive federal funding for this program which will trigger federal cultural resource laws.

Specifically, the CTUIR would like to ensure:

- Compliance with Section 106 of the National Historic Preservation Act is started early on including 1) consultation; 2) a determination of Area of Potential Effect (APE); 3) determinations of eligibility; 4) and determinations of effect.
- A Cultural Resources Management Plan and/or Historic Properties Management Plan are written to include provisions for adaptive management and revision in the future.
- Cultural Resources Inventory Surveys of the APE are completed.
- Tribal Cultural Resources are addressed to include customary traditional uses, protection of the First Foods, Traditional Cultural Properties (TCP), sacred sites, and sacred landscapes.
- A Monitoring Plan is developed to continue monitoring known sites (archaeological, rock image, TCP, and built environment sites) identified in the APE and periodic inventory and re-evaluations of sites.
- Mitigation should be looked at from a holistic view such as access to sites and usual and accustomed areas and site protection. Below is a list of other types of mitigation.
    - Law Enforcement – personnel are trained and educated to enforce cultural resource laws.
    - Public Awareness to educate the community about cultural resources laws and illegal activities.
    - Discourage use of dispersed recreation sites

- Cultural Sensitivity Training should be required for State of Washington employees

IX. Shrub Steppe Habitat and CTUIR Rights and Interests

Though there is little information in the DPEIS regarding the impacts to the shrub-steppe habitat types, it is important to recognize and for CTUIR to comment that the habitat is endangered and many of the species dependent upon it are threatened.

Shrub-Steppe and Eastside interior grassland habitats were identified through the Northwest Power and Conservation Council's Subbasin Planning process as important focal habitats that were greatly reduced from historic levels, having a high level of threat from future development and a low level of existing protected status. The Columbia River Water Management Plan DIES considers impacts to these habitats from the perspective of a relatively narrow irrigation development corridor without due consideration of the large scale habitat conversion that could result from the expansion of irrigated agriculture associated with this development. This oversight significantly understates the magnitude of the total effect on wildlife. The DPEIS should correct that deficiency.

CTUIR exercises hunting, gathering and fishing rights in these habitat types.

X. Consultation and Coordination with CTUIR

It is hoped that Ecology, the Washington legislature and the Governor's office will consult regularly and fully with the CTUIR. Our rights and interests require it and our commitment to work with Washington compels it.

Page 4-55 of the DEIS reads, "To avoid the potential cumulative impacts of the Management Program, Ecology will continue to coordinate with the local, state and federal agencies that manage resources in the area." It fails to include Tribes. Tribes need to be included in the consultation process, particularly with respect to potential cumulative impacts that negatively affect Tribal water rights, as well as fish and wildlife habitats in general.

Adequate mitigation aside, CTUIR requests that Ecology consult formally, coordinate regularly and work side by side with CTUIR to implement the Program to its fullest potential.

The CTUIR has extensive legal and economic assets, treaty rights and other interests in the Columbia River. These holdings have been fully shared, if not over-appropriated with the rest of the State of Washington and the region. Salmon, sturgeon, eels – all of CTUIR's cultural and traditional resources have been pushed to the brink, and cannot be pushed any farther. They are already on the Endangered Species List – the next step is extinction.

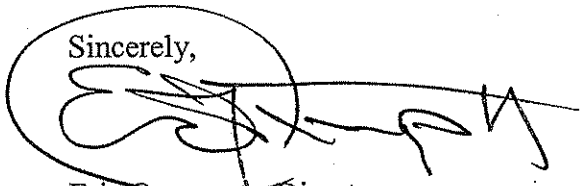
The Tribal Government wishes to work cooperatively and effectively with Washington to restore the Columbia River, recover harvestable fish runs and build the State's agricultural economy. A healthy, robust agricultural economcy can co-exist with a sustainable river of salmon and sturgeon and eels. That future is not likely to happen by repeating the past. We hope the Columbia River Water Management Program will plow new ground that replicates and improves upon our experience in the Umatilla River Basin in Oregon and the Walla Walla River Basin in Oregon and Washington. Success will be measured by the amount of stream flow restored, the numbers of salmon and other fish recovered, the amount of water irrigated and the number of acres in production. The CTUIR desires to engage in all aspects of Washington's development that will arise from the Program – including development of new irrigated agriculture and other consumptive water use development.

CTUIR incorporates by this reference the formal comments from the CRITFC as part of these comments.

The Department of Natural Resources is happy to assist where it can. We appreciate the invitation to work with Washington and its residents on the Policy Advisory Group.

Thank you for the opportunity to comment on the DPEIS.

Sincerely,



Eric Quaempts, Director
Department of Natural Resources

Cc: Chairman A. Washines, YIN; Chairman R. Miles, NPTEC; Chairman R. Suppa CTWSIO; Chairman M. Marchand, Conf. Tribes of the Colville Reservation; Chairman R. Sherwood, Spokane Tribe of Indians; Olney "JP" Patt, Jr. – CRITFC.

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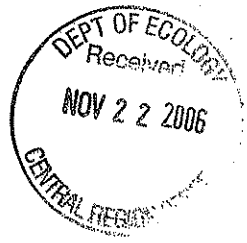

Derek Sandison
Department of Ecology CRO
15 W. Yakima Ave., Suite 200
Yakima, WA 98902-3452 6

RE: Columbia River Draft EIS Comments

This letter constitutes the comments of the Northwest Pulp and Paper Association (NWPPA) on the *Columbia River Water Management Program Draft programmatic Environmental Impact Statement (EIS).*

NWPPA represents pulp and paper manufacturers in Washington, Oregon and Idaho. NWPPA has member facilities located on the Columbia River in all three states: Potlatch in Lewiston; Boise at Wallula WA and St Helens OR; Georgia-Pacific at Camas WA and Wauna OR; Weyerhaeuser at Longview WA; and Longview Fibre also in Longview.

Our industry follows the Columbia River Management Program with interest and shares concerns of other river uses for maintaining a full and viable use of the river for water resources and transportation while maintaining a healthy environment. We look forward to your evolving progress and realize the EIS is just the first of many steps.

NWPPA has several concerns regarding the EIS discussion of water quality. This section is does not accurately reflect the temperature water quality regime and also does not adequately position the potential temperature impacts for the purposes of broad policy making.

1. <u>Effect of off-channel storage systems on the temperature regime of the Columbia is not addressed by the EIS</u>

Any project alternative evaluating the feasibility of large off-channel storage systems in the Columbia Basin must evaluate the potential impacts of solar heating

on these reservoirs and what warmer waters will mean for the Columbia River. The EIS is curiously silent on this entire topic.

Nevertheless, it is well known that the existence of impoundments behind the dams on the Columbia River creates a situation where a greater water surface area is exposed to solar heating and as a consequence, dams have the potential to raise the temperature of the river several degrees over the natural system potential. The effect is not only greater warming of the river, but there is also a shift in the temperature regime seasonally and this has implications for migrating anadromous fish. The EIS needs to evaluate the impact of additional impoundments on temperature of the river relative to return flows.

2. <u>The EIS mis-characterizes the impact of point sources such as pulp and paper mills on heat loading, this should be corrected.</u>

"Affected Environment," Section 3.4.2 of Chapter 3.0 contains a description of surface water quality relative to temperature issues. The section references the effort by EPA, the three Northwest States and Tribes to develop a TMDL report for temperature on the Columbia and Snake Rivers (P 3-24). The EIS then goes on to mis-characterize information in this draft version of this report by stating that "Water temperature can be elevated above natural background conditions by a number of human activities. Point sources such as municipal waste treatment plants, or pulp and paper mills, discharge thermal energy directly to the river."

It is true that these point sources discharge warm treated effluent; however, it is incorrect to imply that this causes a significant impact on water temperatures. The impact is insignificant, and while modeling can be performed to a tenth or hundredth of a degree, the effects are shown by field studies to be not measurable.

The work performed so far in the draft TMDL report indicates:

> *"The effect of point sources on water temperature is very small and, in and of themselves, the point sources do not lead to exceedances of water quality standards when averaged in with the total flow of the river" (p. 26 of draft report).*
>
> *"The point sources can cause temperature plumes in the near-field but they do not result in measurable increases to the cross-sectional average temperature of the main stems. The dams do however alter the cross-sectional average of the mainstem. They increase the cross-section average temperature by as much as 5° C at John Day Dam in late summer and fall and they extend the periods of time during which the water temperature exceeds numeric temperature criteria" (p. 28 of draft report).*

"...(t)hese facilities cumulatively do not increase water temperature by more than 0.14°C"...(p. 37 of draft report).

In response to Ecology Industrial Section concerns that pulp and paper verify the preliminary results of the Columbia River temperature TMDL modeling, the mills were requested to perform a two-year field study of water temperature upriver and down river of the mills. Parametrix conducted this effort in the summers of 2002 and 2003. Essentially the two-year monitoring study shows that there is virtually no discernable difference in water temperature of the receiving water upstream and downstream of the facilities.

The final report is available through a number of sources. Ecology's Industrial Section has the report on file. Also, the information was submitted to Ecology as part of the 303(d) data call for the most recent listing of impaired waters. Conclusions of the report are cited in the interactive tool for the list of impaired waters. Lastly, the report is available through NWPPA by request.

In sum, the body of work performed to better understand temperature water quality issues for the Columbia indicates that impoundments such as dams contribute significantly to elevated temperatures; however point sources cumulative do not. This further underscore the first point in this letter that is important to evaluate the effects of new proposed impoundments on river temperatures to better inform policy decisions.

Thank you for your consideration of these comments.

Sincerely,

Llewellyn Matthews

Llewellyn Matthews
Executive Director

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November 22, 2006

Derek I. Sandison, Regional Director
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15 West Yakima Avenue, Suite 200
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Re: Spokane Tribe of Indians' comments on Draft Programmatic EIS for the Columbia River Water Management Program

Dear Mr. Sandison:

The Spokane Tribe of Indians' connection to the Columbia River and its upriver tributaries date from time immemorial, and is deeper than any others in what is known today as eastern Washington. This letter and the attachments are submitted on the Tribe's behalf to express its concerns arising from that deep connection with the Washington State Department of Ecology's Draft Programmatic EIS for the Columbia River Water Management Program ("Draft EIS").

Background

The Spokane Tribe of Indians' physical and spiritual dependence on area streams and natural resources is well documented. Known by neighboring tribes as a salmon people, the Spokane ancestral lands ran the length of the Spokane River, from the Columbia to Lake Coeur d'Alene. In 1877, Tribal leaders entered an agreement with the U.S. War Department establishing the Spokane Indian Reservation at the two rivers' confluence. Four years later, President Rutherford B. Hayes by Executive Order uniquely set the reservation's boundaries at the far banks of its border waters, ensuring that they and their resources would forever be a part of the Tribe's permanent homeland. But during the century that followed, dramatic and unforeseen change came to the Spokane through non-Indian settlement, Washington's statehood, the Grand Coulee dam and mining activities, both on- and off-Reservation.

The Tribe's survival during the 129 years following its Reservation's establishment may be credited to the Spokane's ancestors, both for the physical and spiritual sustenance drawn from the homeland they reserved, and for the culture and the distinction it gives them in their place. The Spokane continue to honor their ancestors by living their religion and culture. With that comes an ongoing physical and spiritual reliance on the mountains, waters, fish, wildlife, and plants – all of the natural resources their ancestral homeland provides. Many tribal members use these resources to the near exclusion of the outside to fulfill food, medicine, spiritual and cultural needs that revere the waters and the life they give. Some, in continuing honor of their ancestors' ways, perform almost daily sweat lodge and other ceremonies. Although the salmon no longer make their way to the Spokane Reservation, they continue to be valued by the people and honored in their ceremonies.

It is the Tribe's modern policy to ensure the Reservation's resources are available to meet its membership's physical and spiritual needs, and to aggressively protect the Spokane people when using

those resources in the ways promised to their ancestors. The proposals considered in the Draft EIS potentially jeopardize many interests of critical importance to the Spokane people's future.

Water Quantity

Over twenty-five years ago, the United States filed a federal lawsuit to protect the Spokane Tribe's rights to the waters of Chamokane Creek, which forms the Reservation's eastern boundary. The *U.S. v. Anderson* adjudication ultimately included the Spokane Tribe, the Washington Departments of Ecology and Natural Resources, and various basin water users as well. The court determined the Tribe is entitled to sufficient surface- and groundwaters to fulfill the agriculture and fishery purposes of the Reservation. Although the adjudication was limited to Chamokane Creek, the federal doctrine of impliedly reserved water rights, on which the *Anderson* court relied, applies with equal force to the Spokane and Columbia Rivers. Thus, any assessments of proposed state or federal actions that might affect the availability of the Tribe's waters to satisfy its Reservation's purposes must include analyses of the potential for such impacts. The Draft EIS does not do so.

The proposed Lake Roosevelt drawdowns will affect surface- and groundwater flows of the Spokane and Columbia Rivers, and may have hydrologic affects in the Chamokane Creek basin as well. The EIS needs to include analyses of these impacts. For example, what effect will the drawdowns have on domestic or community wells along the Columbia River and its tributaries? What effect will they have on groundwater storage and the timing of groundwater releases to surface water flows? The potential hydrologic impacts the proposed Hawk Creek dam would have on the Columbia River and its tributaries must also be assessed, including both surface- and groundwater impacts.

Ecology should also consider potential mitigation measures for negative impacts caused by the proposed actions. In addition to the water quantity impacts just discussed, the Volunteer Regional Agreement appears to focus mitigation on the months of July and August. Its impacts, however, are likely to extend beyond the two summer months, and should be addressed. Finally, Ecology should take great care to not mislead its water users into believing their rights are secure when tribal rights up and down the system will be senior to all.

Water Quality

For several years, the Spokane Tribe has worked closely with the Confederated Tribes of the Colville Indian Reservation, the State of Washington, and various United States agencies, in an intergovernmental effort to clean up hazardous substances released from Teck Cominco's Trail, British Columbia, smelting facility. Over a 100-year span, the company dumped countless tons of mercury-dominated heavy metals into the Columbia River, which then carried the contaminants downstream to Washington and the Colville and Spokane Reservations. As the suspended metals settle, concentrations increase toward the bottom of the river and reservoir systems. The Draft EIS fails to consider and address the effects its proposed actions will have on the Columbia River's water quality with respect to the metals released by Teck Cominco.

The drawdowns proposed for Lake Roosevelt will undoubtedly re-suspend hazardous substances that have settled in the reservoir. What metals are more likely to be re-suspended, and in what concentrations? Will re-suspended hazardous substances be in solid or dissolved form? How does the timing of the drawdown affect the re-suspension of the hazardous substances? Will a deeper drawdown to a lower elevation suspend more of the hazardous substances due to the manner in which they have settled? Will the drawdown result in the surfacing of groundwaters causing the re-release of hazardous substances? Will flow rates affect the how long the metals remain suspended? Where will the various re-suspended hazardous substances settle? Will the Grand Coulee dam cause the metals to settle there? The EIS must analyze these and other impacts related to the re-suspension of Teck Cominco's hazardous substances.

Air Quality

The drawdowns will have other effects related to the hazardous substances released by Teck Cominco. As mentioned above, when the metals settle, they concentrate toward the bottom of the river and

reservoir systems – the deeper the drawdown, the higher the metals concentrations in the exposed beaches. As those beaches dry, their soils and the hazardous substances that settled there will be vulnerable to the winds. The Draft EIS does not consider and address these effects.

What are the metals concentrations in the beach areas that will be exposed by the deeper drawdowns proposed for Lake Roosevelt? What metals are more likely to be taken up by the wind, and how will they affect air quality? What locations will wind-blown contaminants be a greater problem due to higher metals concentrations or higher frequency or velocity of winds? These, and related questions must be assessed.

Wildlife and Fish

The soils, water and air quality issues described above present possible exposure concerns for wildlife and fish in and near Lake Roosevelt that are not adequately analyzed in the Draft EIS. What are the risks to the fish and wildlife that ingest the waters that carry re-suspended hazardous substances? What are the risks to wildlife that ingest air laden with wind-blown contaminants? What are the risks to wildlife that ingest contaminated fish or plants on which wind-blown contaminated dust has settled? Additionally, wildlife using beach areas during the drawdown periods will be further exposed to hazardous substances through the ingestion of soils as plants and insects are sought and consumed. The risks to such wildlife should be examined as related to contaminated areas exposed by the drawdowns in combination with the risks related to the ordinary operations of Grand Coulee dam.

Furthermore, the Spokane Tribe has committed substantial resources to building and protecting Lake Roosevelt's resident fishery – an effort that benefits both tribal members and non-tribal members. The potential for additional losses of these fish due to the proposed increased drawdowns is of great concern to the Spokane. Although the Draft EIS mentions the Colville Tribes' interests in this regard, no mention is made of the Spokane's interests.

The EIS should consider and address these and related potential impacts that the proposed drawdowns will have on fish and wildlife.

Human Health

The ecological risk factors discussed above implicate human health considerations that are not included in the Draft EIS. As explained in the background section, Spokane Tribal members are more closely connected to the waters and natural resources of the Reservation than are others. As a consequence, Tribal member exposure to hazardous substances in the natural environment is intensified in several critical ways. Importantly, the Spokane people do not fall within the category of recreational user, who might be exposed to the contaminants of concern for a few days to a couple of weeks per year. Instead, Spokane Tribal members who reside near Lake Roosevelt or who regularly use its resources for subsistence and cultural purposes will be directly exposed to the air, water and beaches for substantially longer periods. Add to the duration of direct exposure the fact that Tribal members will consume more potentially contaminated fish, wildlife and plants, and are more likely to directly ingest the waters, and it becomes clear that the risk to their health is significantly more extensive.

When examining the potential risk posed to Spokane Tribal members by the proposed actions, it will be important to understand the exposure pathways unique to the Tribe. The necessary considerations are contained in a document entitled: *The Spokane Tribe's Multipathway Subsistence Exposure Scenario and Screening Level RME*. The EIS should consider and address these risks in the proper context of the media of concern and exposure pathways discussed in this document.

Landslides

Since Grand Coulee began operating, the Spokane Indian Reservation has suffered the loss of several acres of lands that sloughed into the reservoir due to the erosive actions of Lake Roosevelt's waters. A substantial amount of these losses occurred decades after the waters first rose behind the dam, suggesting assumptions made in the Draft EIS regarding this potential may be inaccurate. Thus the Draft EIS does not adequately consider the potential for further sloughing related to the drawdowns.

Furthermore, it fails to address possible mitigation measures for lost Tribal lands. These deficiencies should be addressed.

Culture

As discussed above, the Spokane were a salmon people. And while the salmon no longer reach the Spokane Tribe's waters, there remains a close physical and spiritual connection to the streams and their resources. Understandably, many of the Spokane people's ceremonies involve their waters. For example, burials were often performed along the streams – undoubtedly post-dating the 1800 date referenced in the Draft EIS. As a consequence, there exist many burial and other cultural and spiritual sites in areas that would be affected by the proposed actions, including both the Hawk Creek dam and Lake Roosevelt's drawdowns. The Draft EIS fails to adequately consider these impacts. Further, in addition to the laws cited in the Draft EIS that bear on cultural resource issues, Ecology should consider the potential applicability of the Archaeological Resource Protection Act, 16 U.S.C. 470aa-470mm, and the American Indian Religious Freedom Act, 42 U.S.C. Secs. 1996, 1996a.

Additional Considerations

It was explained earlier that the Spokane Tribe, as a sovereign, actively seeks to protect its people and resources. In so doing, the Tribe works on a government-to-government basis with the federal and state governments. It is in that spirit that that the following additional comments are offered for consideration.

In several places, the Draft EIS identifies and discusses the Colville Tribes' Lake Roosevelt and Grand Coulee related interests. For example, the Draft EIS covers at some length the agreement in principle entered between the Colville Tribes and the State. It should be noted that the Spokane Tribe possesses interests in the Columbia and Spokane Rivers similar to those of the Colville Tribes. In fact, the Spokane Tribe's Grand Coulee related losses were proportionally greater than those of the Colville Tribes. And while it is true that the Spokane Tribe has not entered an agreement in principle as the Colville Tribes have, it is also true that the Spokane Tribe was not approached by Ecology until after the Colville agreement was reached, and that contact was minimal. Ecology is well aware that the Spokane Tribe is deeply concerned about Lake Roosevelt and should seek to more thoroughly consider and address the Spokane interests through closer coordination. The intergovernmental consultation inadequacies caused by conflicting schedules should not stand to justify the deficient treatment of Spokane interests in the Draft EIS. The Spokane Tribal government is underfunded, its staff overworked. Beyond the issues discussed above of human and environmental health and water rights, the Tribe's concerns include Grand Coulee's operations, mining and industrial related contamination, and various jurisdictional issues. The reservation's location at the confluence of the Spokane and Columbia Rivers places the Tribe in the crosshairs of several Superfund caliber sites, further depleting the Tribe's limited resources. But despite these pressures on Tribal staff, better communication would undoubtedly have yielded better results in arranging consultation opportunities. The Tribe will continue to exercise its sovereign prerogatives in connection with these issues. Ideally, the opportunity will exist for the Tribe to do so in coordination with the State of Washington.

One issue on which the State and Tribe have coordinated during recent years is Teck Cominco's contamination of the Upper Columbia. Although the Tribe has not formally intervened in the State's and Colville Tribes' litigation against the company, it has submitted an amicus brief supporting the State, and directly participated in negotiations the various involved governments have held with Teck Cominco. Given the State's position in this litigation, it is interesting that the potential re-mobilization of contaminated sediments received no attention in the Draft EIS. Given this possibility, perhaps the Comprehensive Environmental Response, Compensation and Liability Act should be among the laws considered potentially applicable.

Finally, there are a number of inaccurate or misleading statements in the Draft EIS concerning the legal status of various affected tribes, their reservations and their lands. Importantly, there exists no legal distinction between treaty tribes and those, like the Spokane, whose reservations were formalized by Executive Order. *See,* Sections 3.9.3, 3.10.2.3, Table 3-3. As the Supreme Court stated in 1963: "We can give but short shrift at this late date to the argument that the reservations either of land or water are invalid because they were originally set apart by the Executive." *Arizona v. California*, 373 U.S. 546

(1963). It should also be noted that while allotted lands on Indian reservations may be individually held, such lands are also held in trust by the United States. *See,* Table 3-14 (distinguishing between "acres held in trust" and "additional acres held as allotments") .

Conclusion

The federal courts have recognized that at times states have been the worst enemies of Indian tribes. Washington's history with the tribes within its boundaries stands as an example of this, and the state has more than once found itself on the opposite side of court room from the Spokane. In recent years, however, Washington and the Spokane Tribe have found that coordination and cooperation can yield good relations and positive results, with greater benefit to the citizens of both. The Spokane Tribe remains hopeful that such can be the case concerning the waters of Lake Roosevelt and the Upper Columbia system.

Sincerely,

Shannon D. Work
Attorney at Law

cc: Rick Sherwood, Chairman, Spokane Tribal Business Council
Warren Seyler, Vice-Chairman, Spokane Tribal Business Council
Gerald Nicodemus, Secretary, Spokane Tribal Business Council
Richard Garry, Member, Spokane Tribal Business Council
Matt Wynne, Member, Spokane Tribal Business Council
Rudy Peone, Director, Spokane Tribe Dept. of Natural Resources
George Hill, Director, Spokane Tribe Culture Dept.
Brian Crossley
Deanne Pavlik-Kunkel

COMMENTS FROM STOI CULTURE PROGRAM
NOVEMBER 17, 2006

Submitted by George Hill, STOI Culture Program Director

1. Ramping of the water levels within Lake Roosevelt Reservoir creates erosion along the exposed beaches. The erosion is created by the wind when the beaches are exposed and the ramping of the water levels speeds up the erosion process. This erosion exposes cultural resources to "Pot Hunters", and vandalism. Also once the cultural resources are exposed to weather their deterioration speeds up and important data is lost forever. The exposed cultural resources are also moved from place to place by the wind and the water thus the site loses its integrity and the cultural resource is lost forever. Not only are cultural resources lost this way our ancestral burials are lost or damaged by the same process. The exposure of the ancestral remains and associated funerary objects are favorite items for "Pot Hunters" to collect and sell on the black market.
2. Any action such as the state is proposing creates a larger workload for the Tribes to protect the cultural resources. The ARPA Patrols would have to be operated on a year round basis which takes a large amount of money. The state would have to mitigate with the tribes to ensure that the funds would be available for the protection of the cultural resources.
3. Exposure of the beaches during peak recreation times in the summer and fall would serve to create new "Pot Hunters". People that normally would not be looking for artifacts or human remains would be tempted to do so just by the fact that the items would be readily visible. People are naturally curious and once that curiosity is piqued you cannot take it back. The problem would even get bigger by word of mouth.
4. The proposed action of the state will create a large void within the protection of the cultural resources and ancestral burials in Lake Roosevelt Reservoir. The large financial burden to protect these cultural resources and ancestral burials would become a state responsibility. The state would have to mitigate with the tribes to ensure that funds would be available to provide adequate protection for these resources for as long as the dams exist.

Spokane Tribal Natural Resources
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Entrainment and Elevation Effects on Resident Fish in Lake Roosevelt:
The 82,500 to 132,500 acre-feet (1.0-1.5 feet) of drawdown requested in the EIS were repeatedly identified as being within the normal operating range of the reservoir. However, the timing of the withdrawal is not within the norm, and the proposed action is requesting 1.0-1.5 feet of drawdown in addition to the normal operating range of 10-12 feet already taken from the reservoir for fish flows in the lower and mid-Columbia River. The proposed actions may potentially have considerable adverse effects on the Lake Roosevelt fishery. The proposed action would be taking place when the artificial production program normally releases fish following the start of refill. The current strategy of releasing fish after refill begins has been shown to decrease entrainment. Withdrawing water during this critical period would potentially increase entrainment of hatchery fish.

Low lake elevations have also been shown to negatively impact fish in Lake Roosevelt. The lower elevations proposed will make native species and fish stocked by the artificial production program more vulnerable to predation by forcing fish out of nursery/rearing areas and concentrating them in a smaller pool of water at a time when feeding rates are highest due to higher water temperatures. Lower water elevation will also reduce macroinvertebrate production in the reservoir and tributaries where numbers are already severely depressed as a result of flood control elevations. In addition, lower elevations will potentially dewater eggs, strand young fish, and block resident fish access to available spawning sites. Current program direction has been to use an upper Columbia River kokanee stock in Lake Roosevelt to address genetic integrity concerns in the Upper Columbia River. This stock is more genetically similar to indigenous stocks of the Columbia River, however it is an early spawn stock and additional drawdowns would limit access to available spawning sites. Increased entrainment, predation, reduced food resources, decreased access to spawning areas, and lower larval and juvenile fish survival will reduce the numbers of fish available for recreation and subsistence uses.

Water Retention Effects in Lake Roosevelt:
The EIS mentions retention time in the reservoir, and that it may be affected, but does not address the potentially negative impacts. Productivity in Lake Roosevelt is already significantly delayed as a result of the flood-control drawdown. Productivity begins to increase as flow decreases in the reservoir, allowing plankton to begin reproducing at higher rates and be retained in the reservoir. The proposed actions would negatively impact this on two points:

1) Additional withdrawals will decrease retention times, causing reduced production of plankton during the critical period when the food web is being established for the season. As Lake Roosevelt is primarily a pelagically driven system, further reductions in the available forage base in an already nutrient limited system will negatively impact fish survival and growth.
2) In the advent that additional water is pushed through Lake Roosevelt as a result of the international treaties, VRA's or new storage facilities, these negative impacts would be more severe.

Economic Impacts:
Lake Roosevelt is one of the most visited lakes in Washington (nearly 350,000 anglers at an economic value of 9.7 million dollars). The economic value of the fishery in Lake Roosevelt will be jeopardized by these actions as it would reduce fish available for recreational and subsistence uses. This will lead to reduced income for the Tribes and other stakeholders around the reservoir.

While we appreciate the needs of irrigators and fish managers in the lower and mid Columbia River, we feel it is a constant battle to remind lower and mid-river interests that we have needs in the upper Columbia River region as well and are not interested in all downriver water needs being met at the expense of Lake Roosevelt, it's fishery, or the Tribe and stakeholders of Lake Roosevelt.

Temperature
EPA and ECY initiated a temperature TMDL that has been sidetracked by federal dam operators. I have recently reviewed a presentation by BOR that is looking at some of the possibilities of reducing temperature increases at caused by Grand Coulee. Additional drawdowns or off-site storage; either through a new impoundment (ie Hawk Creek) or through bolstering existing ones (ie Banks Lake), could have an adverse affect on temperatures in Lake Roosevelt. This could specifically affect Tribal waters of the lower Spokane River and a portion of the Columbia River.

Water storage reservoirs, when used for summer irrigation, generally do not stratify and will not be deep enough or maintain a body of water long enough to provide cool waters through stratification and selective withdrawals. When waters do not currently meet Water Quality Standards efforts should be taken to improve water instead of degrading it.

The overarching intent of this process has been to provide "two buckets for consumption/irrigation while providing one bucket for fish. This proposal appears to only determine that one bucket for fish be applied to those waters below Grand Coulee with total disregard for the fish upstream of Coulee.

Thank-you.

Deanne Pavlik-Kunkel
Lake Roosevelt Fisheries Evaluation Program Manager, Spokane Tribe of Indians.

And

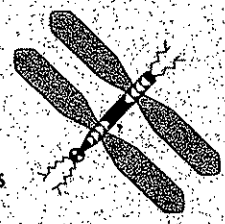
Brian Crossley
Water & Fish Program Manager

NOVEMBER-16-2006

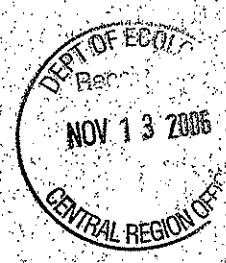
DEREK.

After reviewing some of the maps and listening to some of the citizens whom attended your meetings in the towns, which by the way were not held next to where the people will be impacted. I realize this is yet another bureaucratic democratic waste, not only of my tax dollars but of the time and recourses of many people and nature. For one you people have yet to show me, a land owner two pieces of paper that are consistent with one another. Are these dams for power generation, are they for irrigation, or are they for salmon recovery? They can not be for all three at the same time. Simple plans exist for answers to all three of the problems poised above but you narrow minded democratic politions (SP) cant seem to understand common sence. And i for one will not support you nor will many others support you in your efforts to fast track an idia brewed up by a bunch of people whom havent a clue to solving what the real issues are and refuse to look not only at ideas and programs that are working but to realize that change although inevitable is not the best for all people involved. Many questions remain to be asked on this project but alas i myself am very passionate to the point of anger and would only cause a big disturbance if i was to attend your meetings, which i would like to do with my father but him being 87 years old and unable to travel the distance to attend them to voice his opinion backed by years of wisdom is something that is not possible at this time. [Did i mention both him and I are land owners?] I understand the Dept. of Ecology is given the task to protect the natural recourses of the United States, which i personly feel is an agency totally out of control and needs to be reigned in drasticly, why are you doing this investigation? Have you ever stopped to look at what will be lost forever if you put these dams in? Natural habitate for thousands of animals and birds some endangered and some you will never know about because you have never spent time walking where i have walked next to the land that will be flooded and listened to the sounds of nature and to spirit of the land and the souls that dwell their. [Read burial grounds in the last sentence]. A suggestion to you Derek ,why dont you make a stand if you are for these dams, then stand up and say i am for them and this is why and these are the reasons for such, try to convince me of the wisdom of your plan. However, if you are against these dams then why dont you make a stand and remove yourself from the podium go to your supervisor and proclaim that due to the conflict of my personal ethics i can no longer work on this project, and if it means secureing another job, so be it. How much forituide do you posess Derek? Probably not as much as is needed to do what i suggested you to do. I on the other hand posses a lot and am willing to make a stand and fight to the end a bunch of democratic bureaucratic idiots who can call this idea theirs. This is a loose loose program stop the program quite wasteing the money now and put it into the programs that are working and into research to find some new answers to the above problems, finish the columbia basin project as devised years ago, sorry dude it never got done. DON'T however try to cover my land with water it wont be an easy thing to do.

Center for
Water Advocacy
Water Law and Policy Services



November 8, 2006



Dan Haller
Washington Department of Ecology
Central Regional Office
15 W. Yakima Ave., Suite 200
Yakima, WA 98902-3452

Re: Initial Report on Columbia River Water Supply Inventory & Long-Term Water Supply and Demand Forecast, and the related draft EIS

Mr. Haller:

Thank you for giving us the opportunity to comment on the Initial Report on Columbia River Water Supply Inventory & Long-Term Water Supply and Demand Forecast, and the related draft EIS (Report). The Center for Water Advocacy (CWA) is a non-profit public interest entity dedicated to protecting water resources in the Western United States. CWA conducts legal and scientific research, analysis, policy and litigation in its efforts to protect and restore water quantity, water quality and water rights for the health of the watershed ecosystem, preservation of cultural identity and the benefit of the public.

CWA, hereby, adopts and incorporates by reference into these comments the comments filed by the Center for Environmental Law and Policy dated November 1, 2006. Please contact me if you have any questions regarding our comments.

Sincerely,

Harold Shepherd
President

P.O. Box 583
Clifton, CO 81520

Phone: 541-377-0960
Email: waterlaw@uci.net

United States Department of the Interior

NATIONAL PARK SERVICE
Lake Roosevelt National Recreation Area
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Coulee Dam, Washington 99116-1259

IN REPLY REFER TO:
L30

November 20, 2006

Derek Sandison
Regional Director
Department of Ecology
15 West Yakima Ave., Suite 200
Yakima WA 98902

Dear Mr. Sandison,

I am writing today in reference to the Draft Programmatic Impact Statement (DEIS) for the Columbia River Water Management Program. Please consider these comments as reflecting the viewpoint of the National Park Service (NPS) on the proposed actions identified under both Early Actions and Management Program Components.

Overall, your understanding of the extent and nature of the authority given to the National Park Service by the Secretary of the Interior to manage Lake Roosevelt National Recreation Area (NRA) is incomplete (3-78). Portions of the shoreline and water surface managed by the NPS include approximately 312 miles of shoreline, 47,438 acres of the 81,389-acre water surface, and 12,936 acres of land, or approximately 60% of the Upper Columbia River and its tributary watersheds. The developed facilities that the NPS manages for the public include 22 boat launch ramp areas, 27 campgrounds, and three concessionaire-operated marinas that provide moorage, boat rental, fuel, supplies, food service, and other services. Visitation to the recreation area has been between 1.3 and 1.5 million for the last several years, and has a significant impact on the economies of Lincoln, Ferry, and Stevens counties. The observation noted in the DEIS that "the recreation area is largely undeveloped" reflects a specific management direction to protect the area's scenic qualities documented in the recreation area's 2001 General Management Plan, not a general lack of interest in or visitation to, Lake Roosevelt NRA. Finally, Title 16 of the United States Code Subchapter One directs the National Park Service to "*promote and regulate the use of the Federal areas known as national parks, monuments, and reservations* (later amended to include all units of the NPS), *which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.*"

Therefore, we conclude that your DEIS is flawed by the failure of the Responsible Official to consult with and obtain the comments of the NPS as required by WAC 197-11-060 (4). Our comments on specific sections of the DEIS follow.

1. **Proposal and Alternatives**. The impacts from the amount and timing of the additional water drawn from Lake Roosevelt that is proposed under the Early Action proposal are not well characterized. Although lake levels can fluctuate from 1208 to 1290 feet mean sea level during the months of March – May, they remain relatively stable at 1278 to 1290 feet mean sea level for the months of June, July, and August.

2. **Socioeconomics**. The DEIS does not adequately identify or discuss the economic value of the tourism to Lake Roosevelt NRA to the surrounding counties. All three of the marina concession operations, operating under contract with the NPS, would be negatively impacted. Dock systems, including rental slips, could be left high and dry during the busiest time of the year. Since existing rental slips are reserved well in advance, there would be no place for the boats assigned to the affected slips to go. The ability of the concessionaires to make a profit during the relatively short summer season would be negatively impacted, potentially putting these contracts at risk.

3. **Cultural Resources**. Archeological surveys of the NRA below 1290 feet mean sea level have been limited. The NPS considers the archeological sites an important and significant resource and their protection is inherent to the agency's mission. Higher lake levels protect over 200 submerged archeological sites, which could potentially suffer exposure when draw downs make them accessible to looting and damage from vehicles driven illegally on the exposed beaches. These sites are especially vulnerable during the peak visitor season.

4. **Impacts and Mitigation Measures for Early Actions**. As noted above, the impacts from the amount and timing of additional water drawn from Lake Roosevelt that is predicted under the Early Action proposal are not well characterized. An additional draw of one to one and one-half feet of water to elevations as low as 1276.5 mean sea level, will cause as many as 7, or approximately one-third, of our launch ramps to become unusable and is not within the normal range of lake operations for those months and should not be characterized as such. Swim platforms at a number of popular swimming beaches will be beached, and swimmers would be pushed outside the protective log booms. We recently spent nearly $100,000 of our recreational fee dollars – revenue generated by daily and annual boat launch permits – to retrofit our facilities to be usable at the current summer draw down levels. Funding for additional retrofitting is not available and in some cases it is just not possible to further extend ramps. As noted above, the marina operations at all three of the concession operations operating under contract to the NPS would be adversely impacted. Although the Two Rivers Marina on the Spokane Indian Reservation is not a NPS facility, their launch ramp becomes unusable at 1280 feet mean sea level, pushing hundreds of additional visitors across the Spokane River to the already over-crowded Fort Spokane facilities on the NRA.

5. We also point out that the DEIS fails to identify or discuss impacts to the Spokane Tribe of Indians. The NPS, Colville Confederated Tribes, and the Spokane Tribe of Indians are all signatories to the Lake Roosevelt Cooperative Management Agreement, which requires that

the parties communicate, coordinate and standardize the management of recreational activities and the protection of the environment in their respective areas to the extent possible.

Based on our review and identification of these deficiencies, we recommend that the DEIS be rewritten after the Department of Ecology consults with the National Park Service to properly identify the potential impacts to the NRA's recreational, natural, and cultural resources as required by law and policy. Only then can the Deciding Official make a fully informed decision regarding the appropriate management strategy to adequately address this extremely sensitive but important issue. We appreciate this opportunity to comment on the DEIS and look forward to working with you in the future.

Sincerely,

Deborah Bird

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Superintendent

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